



Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

December 5, 2017 - 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 City Manager
Petria Schreiber 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 the north entrance of the City Hall, distributed to the appropriate news media, and posted on the City website: <http://ci.alamogordo.nm.us> within the required time frame. As a courtesy, the entire Agenda Packet has also been posted on the City of Alamogordo website: <http://ci.alamogordo.nm.us>

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

CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PRESENTATIONS

1. Presentation on the City of Alamogordo's investments. (Larry Lundberg, Vice President, Moreton Capital Markets)

PUBLIC COMMENT

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

CITY MANAGER'S REPORT

REMARKS AND INQUIRIES BY THE CITY COMMISSION

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

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

2. Approve the minutes for the November 21, 2017 Regular meeting. *(Rachel Hughs, City Clerk)*
3. Approve the statements related to the Executive Session held on November 21, 2017. *(Rachel Hughs, City Clerk)*
4. Approve Resolution 2017-36 requesting the approval of the Housing Authority Resident Staff Member Occupancy Plan. *(Evelyn Huff, Housing Authority Manager)* **(Roll Call Vote Required)**
5. Approve the release of old liens that have passed the four-year statute of limitations on collection. *(Petria Schreiber, City Attorney)*

ITEMS REMOVED FROM CONSENT AGENDA

PUBLIC HEARINGS

UNFINISHED BUSINESS

6. Consider and act upon first publication of Ordinance No. 1547. An ordinance repealing Appendix B (Employee Manual) of the City of Alamogordo Code of Ordinances, and replacing it with a new Employee Manual. *(Katie Josselyn, Human Resources Director and Maggie Paluch, City Manager)* **(Roll Call Vote Required)**

NEW BUSINESS

7. Approve the award of RFP 2017-007, On-Call Utility Services, to General Hydronics Utilities, LLC. *(Bob Johnson, Engineering Manager)*
8. Consider, and act upon, Change Order No. 4, Public Works Bid No. 2017-001, to Smithco Construction, Inc. related to the 1-MGD Brackish Water Treatment Facility project, in an amount not to exceed \$147,705.01, including NMGR. *(Bob Johnson, Engineering Manager)*
9. Consider, and act upon, award of Public Works Bid No. 2017-015 to Western Builders, LLC, related to the Alamogordo WWTP: Effluent Pump Building project, in an amount not to exceed \$267,084.00, including NMGR. *(Bob Johnson, Engineering Manager)*
10. Consider and act upon first publication of Ordinance 1552, creating a Separate Violation for Failure to Comply with Municipal Court Orders. *(Molly Kicklighter, Assistant City Attorney)* **(Roll Call Vote Required)**
11. Consider and act upon Ordinance No. 1557 approving a local economic development project for secured financial assistance proposed by Precheck, Inc. *(Petria Schreiber, City Attorney)* **(Roll Call Vote Required)**

12. Consider and act upon Resolution No. 2017-37 to contribute the additional \$203,600 to OCDEC regarding a PR Task Force Letter. (*Petria Schreiber, City Attorney*) **(Roll Call Vote Required)**

13. Consider, and act upon, Resolution No. 2017-38 Declaring that a vacancy exists in the Office of District 6 City Commissioner and calling for a Special Election to fill the vacancy. (*Rachel Hughs, City Clerk*) **(Roll Call Vote Required)**

14. Consider and act upon Resolution No. 2017-35 calling a Regular Election to be held on Tuesday, March 6, 2018 for the purpose of electing a Mayor at Large, two (2) District City Commissioners, and a Municipal Judge. (*Rachel Hughs, City Clerk*) **(Roll Call Vote Required)**

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

ADJOURNMENT

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/30/2017

Report No: 1.

Submitted By: Julianne Hall

Subject: Presentation on the City of Alamogordo's investments. (*Larry Lundberg, Vice President, Moreton Capital Markets*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background: Larry Lundberg and Ryan Stoker of Moreton Capital Markets will present information to the Commission on the City of Alamogordo's investments.



Presentation for
City of Alamogordo

Moreton Capital Markets, LLC is a-registered broker dealer.
Member FINRA, SIPC

Tailored Investment Solutions • Long Term Relationships

About MCM

- Moreton Capital Markets, LLC, (MCM) is a registered broker-dealer with headquarters in Salt Lake City, Utah. We are listed on the Utah Certified Dealer List and are a member of FINRA and SIPC.
- MCM is a member of the Bond Dealers of America.
- Representatives in California, Colorado, Minnesota, Nebraska, Oregon, and Utah.
- Our representatives average about 20 years industry experience, and specialize in serving public entities, mid-market corporations, community banks, credit unions, and independent advisors.
- Moreton Capital Markets does not carry proprietary products or inventory for our representatives to sell. Our registered representatives focus on the investment opportunities that best suit their clients' goals and objectives.
- Our firm has a contractual agreement with RBC Correspondent Services® to serve as our clearing and custody firm. Client assets are held by RBC Capital Markets, LLC.®



Tailored Investment Solutions • Long Term Relationships

Your Investment Team

Larry Lundberg,
Vice President



Mr. Lundberg is responsible for client relationships as a registered representative with Moreton Capital Markets. Larry has specialized in working with public entities and corporations in New Mexico, Utah, and Idaho. Larry's prior experience includes 14 years with Wells Fargo Securities as a Vice President. Larry earned a bachelor's degree in accounting from the University of Phoenix. He has more than 15 years of capital markets experience, and he maintains Series 7 and 63 licenses with FINRA.

Ryan Stoker,
Vice President



Mr. Stoker oversees business development and operates as a registered representative of Moreton Capital Markets. Ryan has over 15 years of experience in the fixed income industry. Prior experience includes Wells Fargo Securities as vice president and Fidelity as a registered representative. Ryan received an Associates' degree from Dixie College and a bachelor's degree in accounting from the University of Utah. He holds Series 7 and 63 licenses with FINRA.

Ben Byington,
Vice President



Mr. Byington is responsible for maintaining client relationships at Moreton Capital Markets. He is a registered representative of the firm and brings over eight years of industry experience. Ben works with public entities, corporations and other institutions needing fixed income expertise. Ben's prior work experience includes eight years with Wells Fargo Securities. Ben earned a bachelor's degree in Finance and Economics from Utah State University. He currently holds the Series 7 and 63 licenses with FINRA.

New Mexico State Statutes For Investments

- **U.S. Treasuries**
 - Treasury Bills & Notes
- **U.S. Government Agencies**
 - Fannie Mae, Freddie Mac, Federal Home Loan, Federal Farm Credit, etc.
- **Brokered CD's & Bank CD's**
- **Government and Treasury Money Market Funds**
- **New Mexico Municipal Bonds**

6-10-10

F. County or municipal treasurers, with the advice and consent of their respective boards of finance charged with the supervision and control of the respective funds, may invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of any county, municipality or school district that is entrusted to their care and custody and all money not immediately necessary for the public uses of the counties, municipalities or school districts not invested or deposited in banks, savings and loan associations or credit unions in:

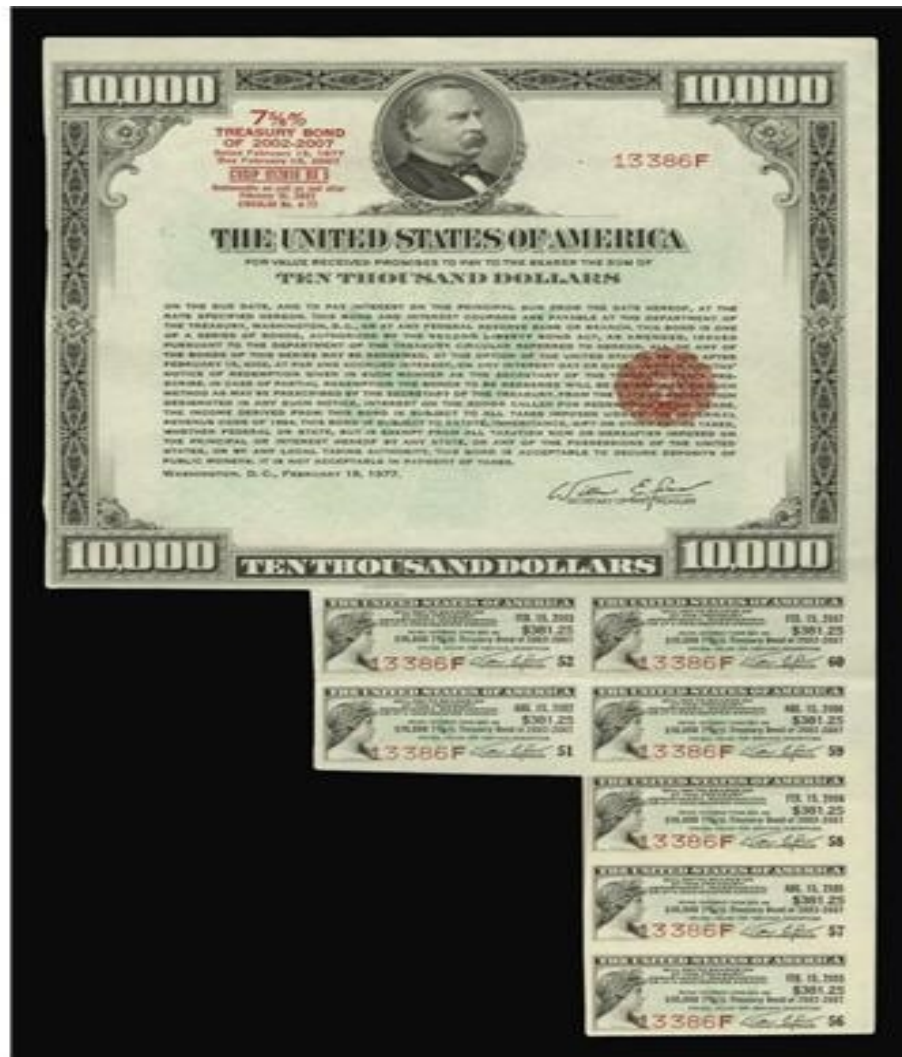
(1) bonds or negotiable securities of the United States, the state or a county, municipality or school district that has a taxable valuation of real property for the last preceding year of at least one million dollars (\$1,000,000) and that has not defaulted in the payment of any interest or sinking fund obligation or failed to meet any bonds at maturity at any time within five years last preceding; (2) securities that are issued and backed by the full faith and credit of the United States government or issued by its agencies or instrumentalities; or (3) federally insured obligations, including brokered certificates of deposit, certificate of deposit account registry service and federally insured cash accounts.

What is a Bond?

A bond is simply a promissory note or “IOU”, which legally binds the borrower to repay the amount loaned per the IOU and describes the terms of the loan.



Original Bearer Bond



A Bond Today

Borrower



Issuer Information

Name US TREASURY N/B
Industry US GOVT NATIONAL

Date brought
to market



Security Information

Issue Date 11/15/2016
Interest Accrues 11/15/2016
1st Coupon Date 05/15/2017
Maturity Date 11/15/2026
Floater Formula N.A.
Workout Date 11/15/2026

When Bond is
repaid



Interest Rate



Coupon 2.000 **Security Type** USN

A Bond Today

Face Amount:
Number of bonds
you own.

Yield: Overall
return on your
investment.

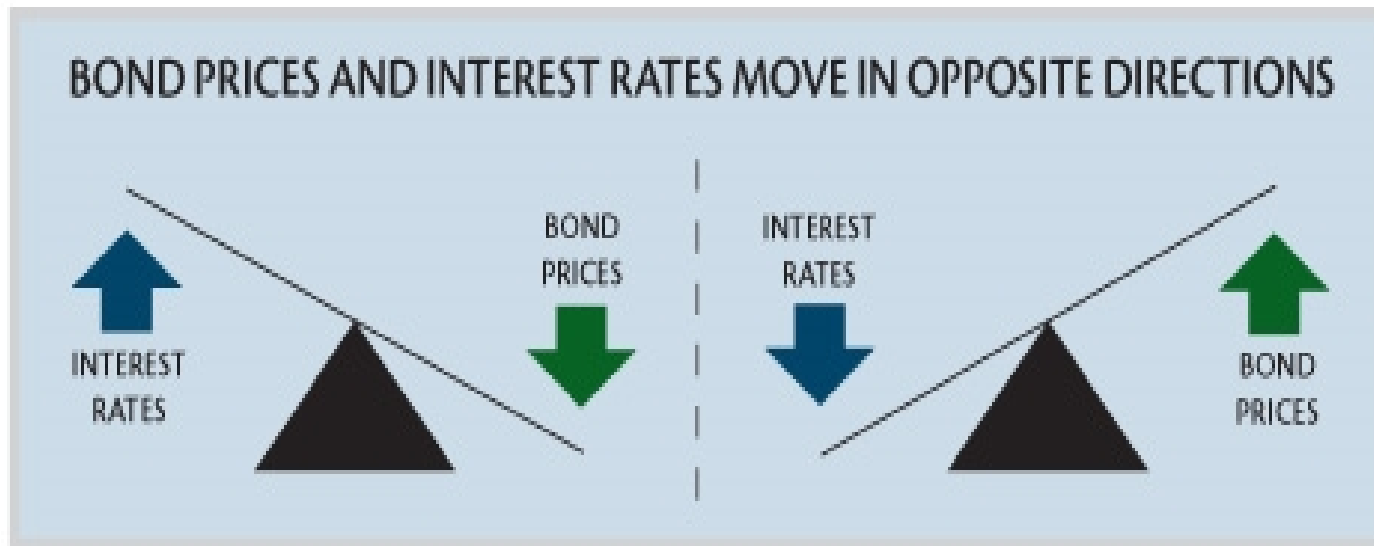
Price: What the
bond is worth
today.

BUY	1000	M	of 2	11/30/22	Issuer	US TREASURY N/B
					Dated	11/30/15
Price	100-00	Yield	2.000000			
☐ Round Price						
Settlement	11/30/17	(T+1 for calendar 'US')				
Notes	City of Alamogordo buys 1 million United States Treasury note to November 11/30/22					
Trade Numbers						
View Amounts in USD						
Principal		USD	1,000,000.00			
Accrued	(0 days)		0.00			
Total		USD	1,000,000.00			

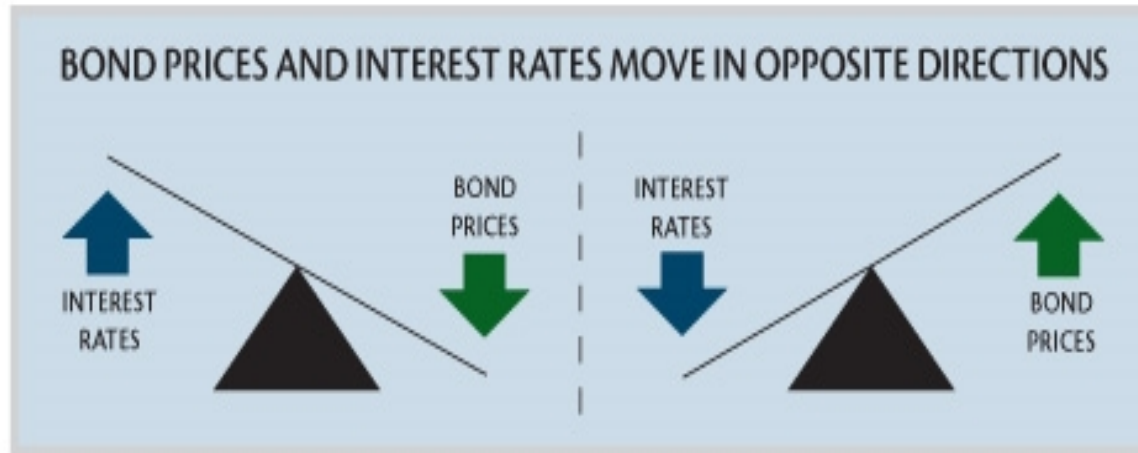
Bond Market



Interest Rates and Bond Prices



Hypothetical Example of Interest Rate and Bond Prices



Interest Rates	Amount	Coupon	Maturity	Price	Yield	Market Value	Maturity Value
Flat	1,000,000	2%	Nov 2026	100	2%	\$1,000,000	\$1,000,000
Up	1,000,000	2%	Nov 2026	99.5	2.06%	\$995,000	\$1,000,000
Down	1,000,000	2%	Nov 2026	100.5	1.94%	\$1,005,000	\$1,000,000

Market Values – Gains and Losses

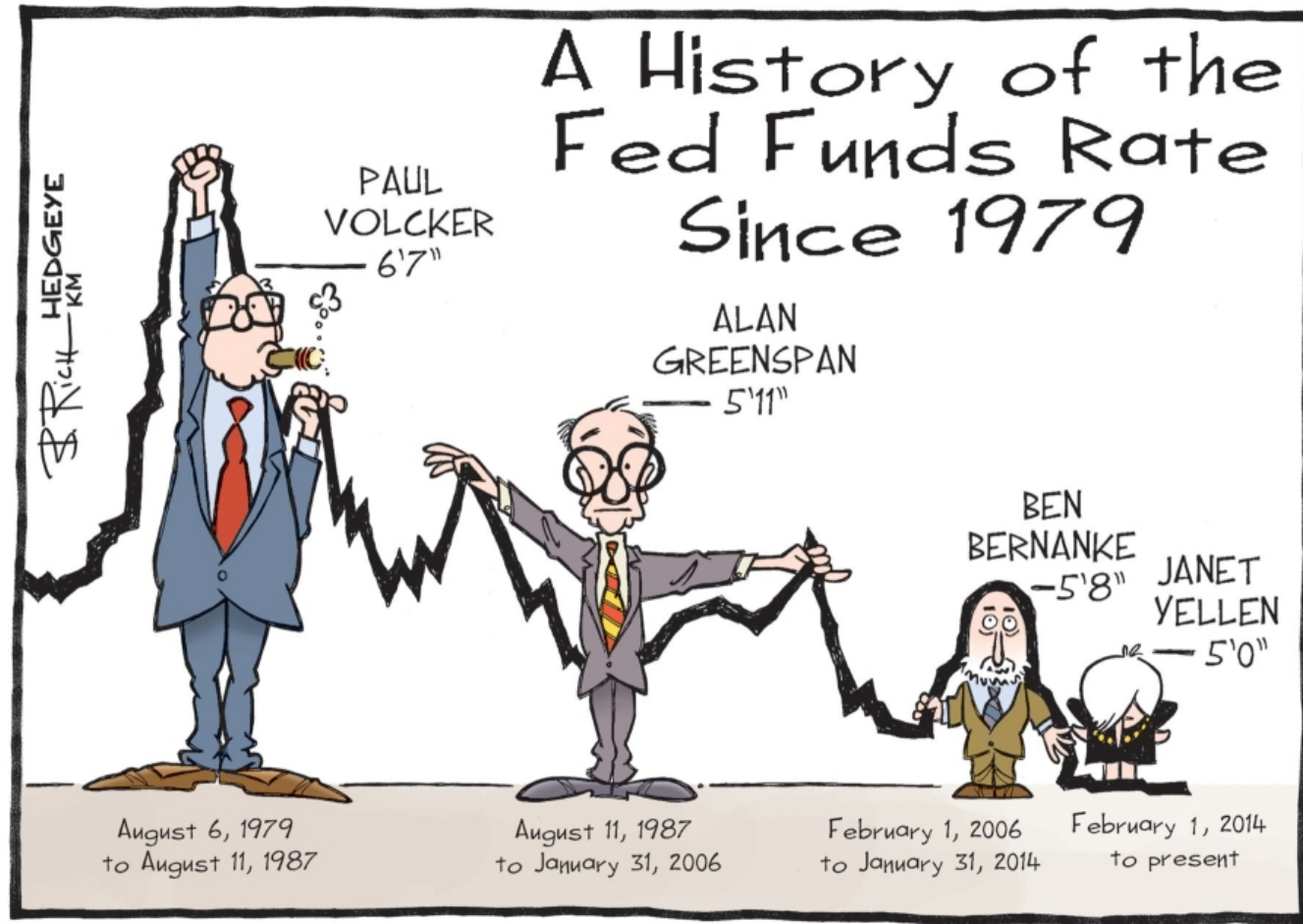
Market Values

- Go up and down everyday.
- On your statement it will show either an unrealized gain or loss.
- You don't capture the gain or take the loss unless you sell the security before maturity.

At Maturity

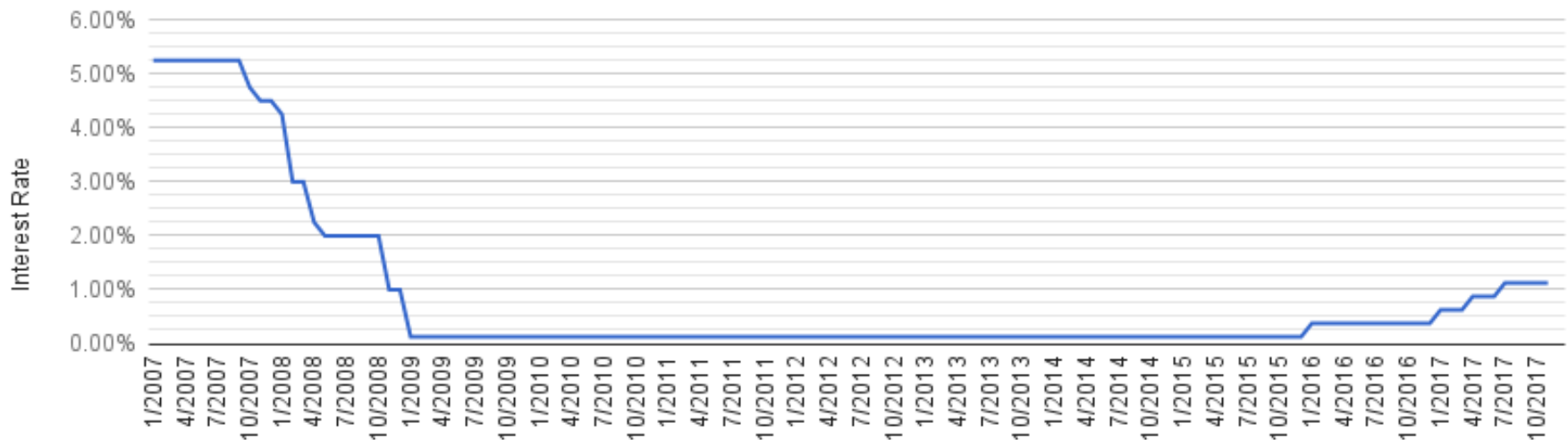
- Unrealized gains and losses go away.
- Face amount of investment is returned.
- Buy and hold.

What moves interest Rates – The Fed



Fed Funds Rate

Federal Funds Target Rate

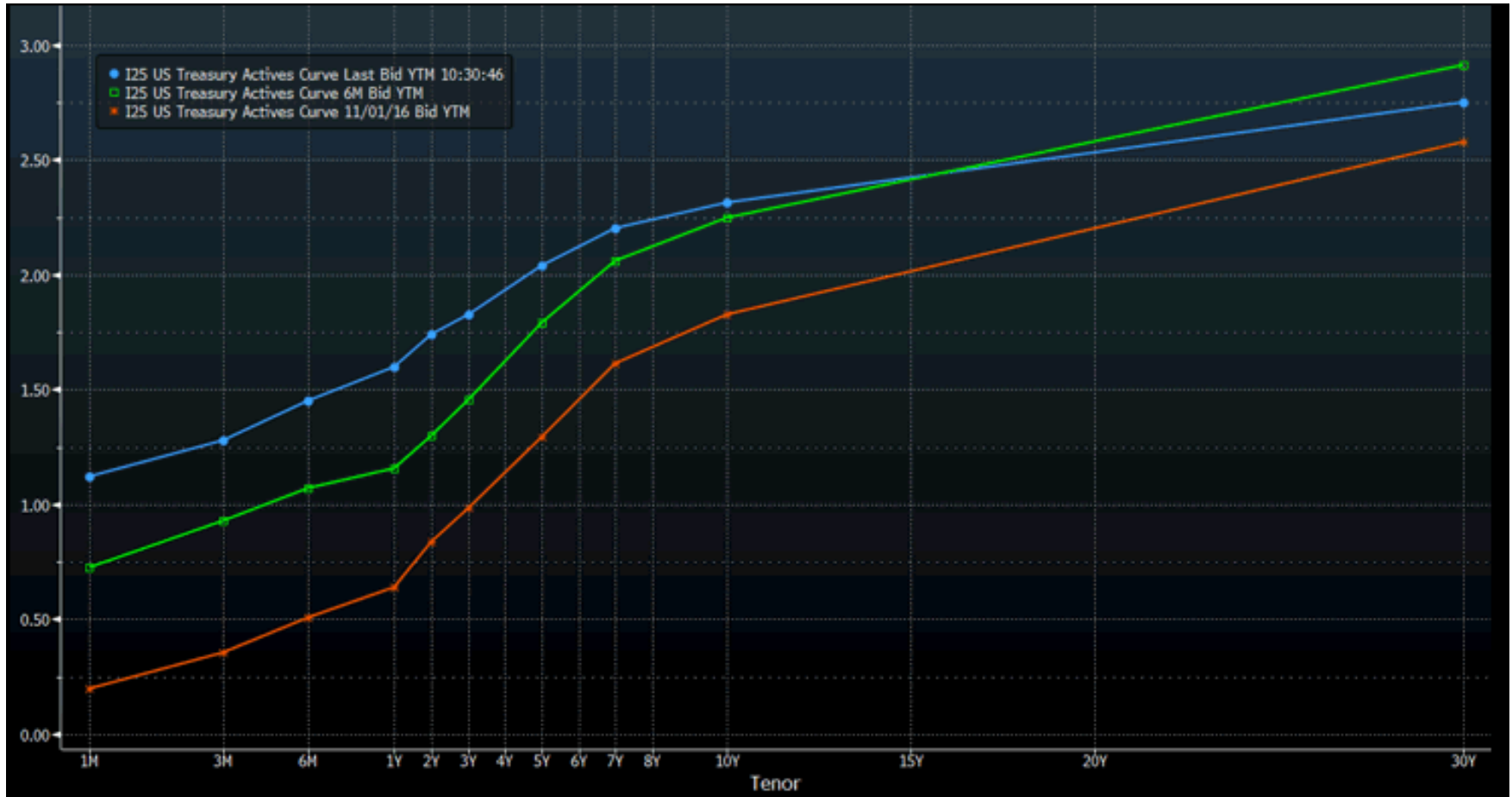


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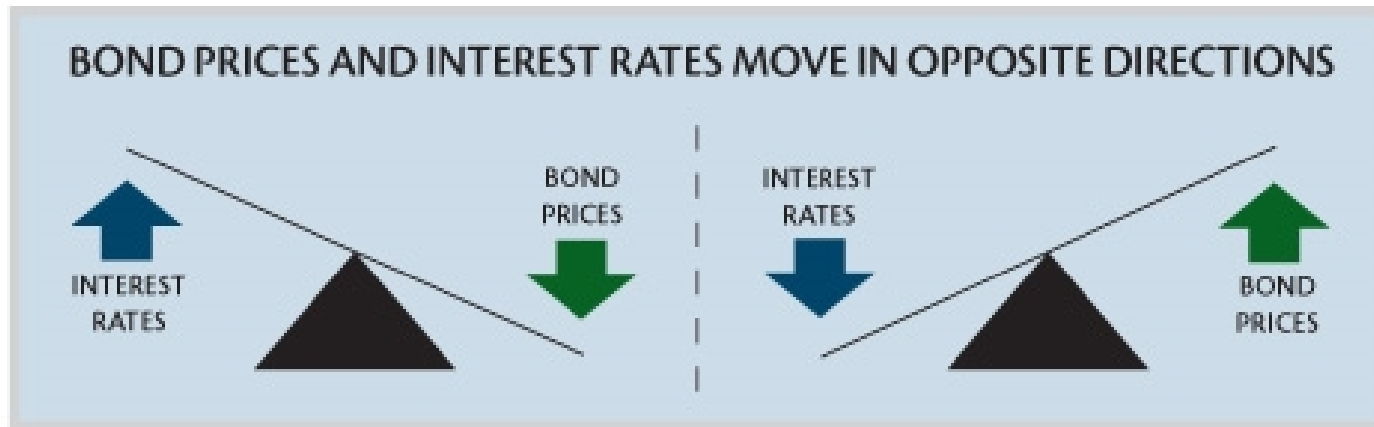
Stock Market vs Yield Curve



Stock Market vs Yield Curve



How does Rising Interest Rates affect COA Portfolio



Rates up, Bond prices down

- Effect on COA: Market value of portfolio is down.
- Solution: Hold bonds until maturity.
 - This eliminates market fluctuations.
- Good News: Reinvestment of maturities.
 - Higher rates, more return on your investment.

COA Investment Strategy - Ladder

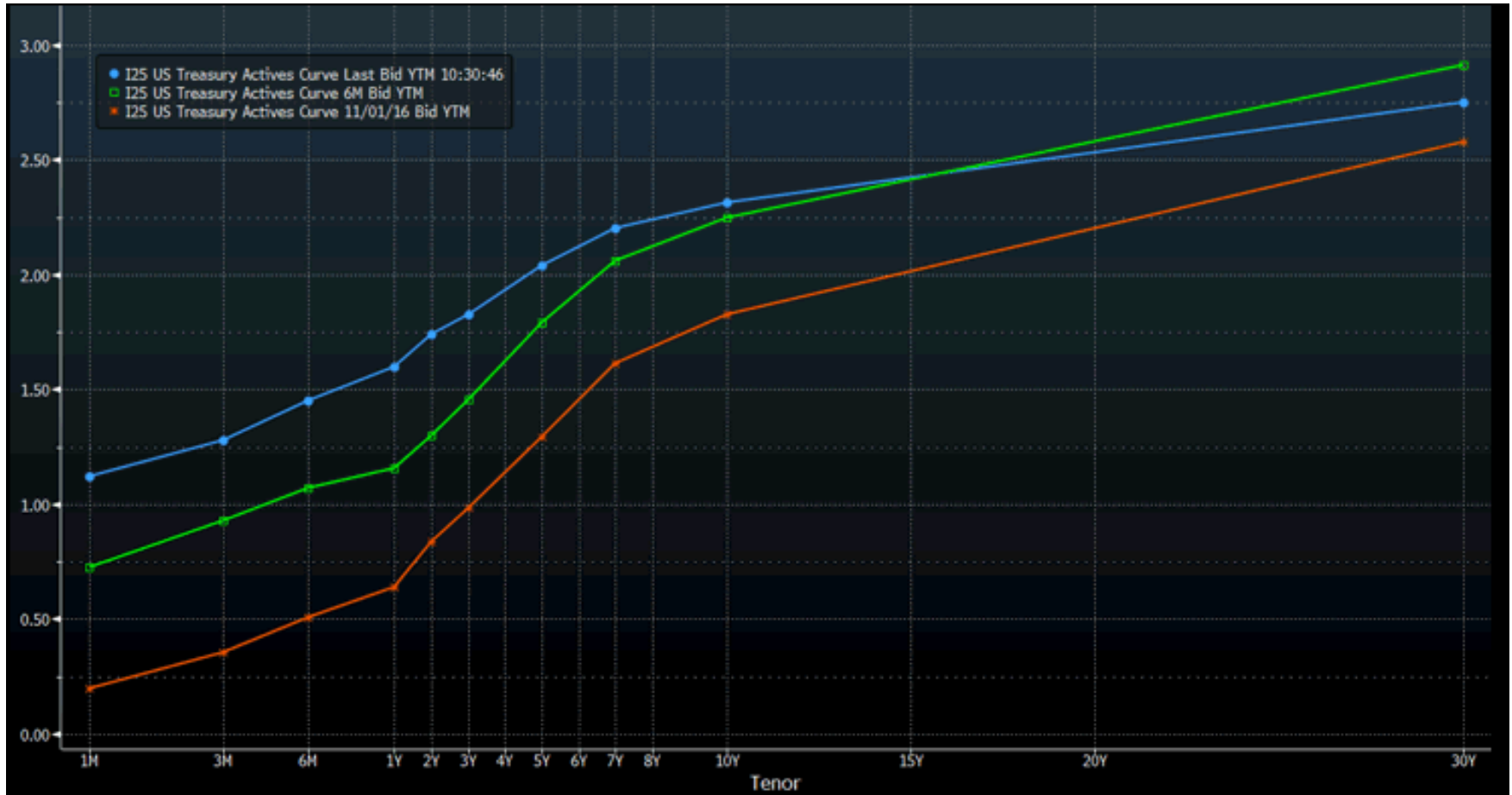
			Future Portfolios			
		Year 1	Year2	Year3	Year 4	Year 5
Initial Ladder	1 yr Bond	A				
	2 yr Bond	B	B			
	3 yr Bond	C	C	C		
	4 yr Bond	D	D	D	D	
	5 yr Bond	E	E	E	E	E
Hypothetical Reinvestment Rates	5 year		X	X	X	X
	5 year			X	X	X
	5 year				X	X
	5 year					X
Blended Return	ABCDE		BCDEX	CDEXX	DEXXX	EXXXX

Yields shown are for illustrative purposes only and do not reflect current or future market conditions.

COA Investment Strategy - Ladder

- Main objective in “laddering” is to create a system where a portion of the portfolio is available for reinvestment at regular intervals.
- Benefits to this strategy:
 - Investments mature roughly every 2-3 months
 - Meet COA liabilities (projects, bond payments, etc.)
 - Available to reinvest at current rates.

Yield Curve



Disclosures

Investment products are Not FDIC insured. Not Guaranteed, and May lose Value

Opinions and forecasts regarding sectors, industries, companies, countries and/or themes, and portfolio composition and holdings, are all subject to change at any time, based on market and other conditions, and should not be construed as a recommendation of any specific security, industry, or sector.

IMPORTANT NOTE: Moreton Capital Markets, LLC is a Broker Dealer and member FINRA/SIPC. Some employees of Moreton Capital Markets may also be registered representatives of Moreton Asset Management, LLC; a SEC-registered investment advisor. Moreton Asset Management & Moreton Capital Markets are separate entities from Moreton & Company.



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AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date:

Report No: 2.

Submitted By: Rachel Hughs

Subject: Approve the minutes for the November 21, 2017 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
November 21, 2017**

**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, CITY MANAGER
PETRIA SCHREIBER, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK**

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

Mayor Boss called the meeting to order at 6:30 p.m. Roll Call was taken by the City Clerk. Commissioner Baldwin was as absent. Deputy Clerk Barraza announced there was a quorum present. Invocation was given by Pastor Vaden Gilloth and the Pledge of Allegiance was led by Mayor Pro Tem Hernandez.

APPROVAL OF AGENDA

**Commissioner Turnbull moved to approve the agenda.
Mayor Pro-Tem Hernandez seconded the motion.
Motion carried with a vote of 6-0-0.**

PRESENTATIONS

1. Proclamation Honoring the Alamogordo High School Boys Soccer Team. *(Richard Boss, Mayor)*

Coach Lee Wider spoke on the Alamogordo High School Boys Soccer Team. He said he is going to brag on these boys a little bit because, as you know, they won the State Championship and the District Championship, but they did far more than that. He said they have not won a district championship for the boys in 17 years and they have not appeared in a state championship in 24 years. When we started playing this year we knew we had a good team that had been forged here in Alamogordo, starting on the little fields over by the Recreation Center. Just about all of these young men started their soccer career right here in Alamogordo playing at the Recreation Center. When it comes to playing in the state, especially north of I-40, we are sort of an unknown. As we started winning games throughout the season and we kept winning, we got a little bit of respect in Max Preps in the State rankings. Once we went up to the State tournament, all of the newspapers up there said that we didn't deserve that seed. They called us the lofty seed from the south. The boys took that to heart and in those three games, they played the best three games that they put together all season. They represented this City with a tremendous amount of passion. They did everything they possibly could to bring that blue trophy home and make this entire City proud and that is exactly what they did. We thank you for bringing them here today to congratulate them on their tasks. Not only did they do that, it is in the way in which they did it. The amount of hours that they had to put in to a soccer season, practice every evening, traveling every weekend and traveling during the week, despite all those extra hours and having to go to school, the average grade point average of these twenty young men is a 3.5. He thinks you would be hard pressed to find athletes of this quality anywhere in the state to have a grade point average of 3.5. We have 5 young men that have grade point averages over 4.0. We really believe in not just building great athletes but great student athletes. The greatest possession that we have here in Alamogordo is these young men behind us. And if we as adults can sit there and say that we are leaving something in their hands, then we are leaving it in good hands, because they are the future of this city. They are the future of this town and he feels blessed of what they have accomplished this year and I feel blessed that this town has these young men to move in to positions of power in the future. He congratulated the team. A video was played as tribute to the team.

Mayor Boss said as Mayor he has the distinct honor and pleasure of recognizing special people. All of us have applauded you and are amazed of what you have accomplished for Alamogordo. The way I do that, as Mayor, is by Proclamation from the City of Alamogordo Executive Offices. He issued a Proclamation to the Alamogordo High School Boys State Soccer Championship Team. (See blue book for Proclamation)

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT**City Manager Paluch made the following remarks:**

1. She spoke on the new FY17 Annual Report for the City of Alamogordo. She talked about the ideas of the report and some of the information in the report. She said this report will hopefully answer a lot of questions that the citizens have and they will get to see, sort of, an insight perspective on what the City does on a daily and yearly basis. She thanked all the employees that put time into the annual report. She talked about where and how to access the report. She wished everyone a Happy Thanksgiving and reminded everyone that City Offices will be closed on Thursday and Friday.

REMARKS AND INQUIRIES BY THE CITY COMMISSION**2. 2017 State of the City - Mayor Richard Boss. (Richard Boss, Mayor)**

Mayor Boss presented the State of the City address. He said himself and City Manager Paluch coordinated the release of her FY17 Annual Report with a presentation of his report. He showed a power point presentation about the economy, Holloman Air Force Base, major projects, the Alamogordo Police Department, the Alamogordo Fire Department and the new Annual City Report. (See Power Point in Blue Book).

Mayor Pro-Tem Hernandez made the following comments:

He said we have accomplished quite a bit in the last few years. He thanked the Commission and City staff. He said we may always disagree, but we agree and we get along very well and that is always a good thing. He said we have one marquee sign and would like to see the City replace that one with a digital and actually would like to see the City add three to four of those signs. One at the Civic Center, one at the library, one at the Senior Center and maybe one at Alameda Park to get out some of this information that we have and let the public know what is going on. He said he receives calls several times a week and people ask him to do and look into things and stuff like that. One of the things that he has been preaching is as our voice, he feel that his voice is very weak because there are only two to three hundred people that go out and vote. He has been trying to use that as a method to try to get people to vote. When he represented the golf course area, his voice was very strong in 1996 to 2000. He feels that it has weakened since then because of the amount of people that vote. He feels that government looks at it as such, and so he has asked for people to get out and vote even if they don't vote for him. If there are five or six hundred that vote your voice is stronger and so he has asked for that. Maybe these signs will help during those times. He knows that some of them are fairly expensive and he would like to get a better one. He said the museum put one up and thought they should have waited a little bit and saved some money to get a better one, but it is great that they have it. He thinks it would be a big plus for us if we could get some more information out.

CONSENT AGENDA

3. Approve the minutes for the October 26, 2017 Special meeting, the November 7, 2017 Regular meeting and the November 14, 2017 Special Workshop. (Rachel Hughs, City Clerk)

4. Consider and act upon, final publication of Ordinance No. 1549 adopting the 2017 revisions of the New Mexico Uniform Traffic Ordinance 2010 Compilation through July 2017. (Petria Schreiber, City

Attorney) (Roll Call Vote Required)

5. Approve the release of liens that have passed the 4-year statute of limitations for collection. (Petria Schreiber, City Attorney)

6. A letter releasing any obligation that the German Air Force may have to the City of Alamogordo after Oktoberfest 2013. (Petria Schreiber, City Attorney)

Deputy Clerk Barraza asked to remove Item #3 from the Consent Calendar.

Mayor Pro-Tem Hernandez moved to approve items 4, 5, 6 of the consent calendar.

Commissioner Sikes seconded the motion.

Roll call vote was taken.

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

ITEMS REMOVED FROM CONSENT AGENDA

3. Approve the minutes for the October 26, 2017 Special meeting, the November 7, 2017 Regular meeting and the November 14, 2017 Special Workshop. (Rachel Hughes, City Clerk)

Deputy Clerk Barraza asked to make an amendment to the October 26, 2017 Special meeting minutes. He said on page three of those minutes, the paragraph beginning with Commissioner Payne asked if we had talked to OCEDC. He said per City staff the second sentence of that needs to be amended to read "City Manager Paluch said yes staff has spoken with OCEDC. She pointed out that CEO of OCEDC Mr. Espiritu was present. She then said we do have their blessing. That is what we would like to amend. Mayor Boss asked that you would like amend it and vote on the amendment. Deputy Clerk Barraza answered yes sir.

City Attorney Schreiber pointed out that the amendment should not read that Mr. Espiritu made any comment, because he remained silent, just that he was present and that was pointed out. She asked Deputy Clerk Barraza to read the correct amendment. He read "City Manager Paluch said yes staff has spoken to OCEDC. She pointed out that CEO of OCEDC Mr. Espiritu was present. City Manager Paluch then said we do have their blessing."

Mayor Pro-Tem Hernandez moved to approve as amended.

Commissioner Martin seconded the motion.

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

UNFINISHED BUSINESS

7. Consider and act upon, Ordinance No. 1544 for first publication amending sections 28-03-005, 28-03-100, 28-03-085, and adding section 28-03-082 of the Alamogordo Code of Ordinances regarding water and sewer services. (Mark Threadgill, Customer Service Manager) (Roll Call Vote Required)

Mark Threadgill said this is the third time we are bringing this proposed Ordinance before the Commission. He said he thinks this time they hit all of the issues that have been discussed at length. He went over the language to be added and removed from the proposed Ordinance. He said there is one other issue that was discussed at the last meeting that is not in the Ordinance and that had to do with the owners of mobile homes on rented lots. After reviewing the State Statutes covering municipal liens for utility payments, the State Statutes are very clear in that it references lots and parcels. Property owners of lots and parcels, not someone that rents a lot and parcel, but owns a mobile home on it, so we did not include any language to change that deposit requirement. A mobile home owner on

a rented lot is a tenant under the municipal utility uses and so they will continue to pay a renter deposit for that lot. We offered no change to that part of the Ordinance.

Mayor Pro-Tem Hernandez said he appreciates all the work that has been done on this. He said he cannot support this. He agrees with everything except with charging for the empty lots and because of that he could not support the entire Ordinance.

Mayor Boss said one of the things that we can keep in mind here is if we do or do not adopt this; it will not stop us from modifying this at any point. We can adopt this and put in the changes that need to be made and then later on, in other meeting, we could go back. We are not locked into this for a ten year period or even a two month period. He thinks the Commission should consider that. He said that he agrees with Mayor Pro-Tem Hernandez that there are areas that he is a little uncomfortable with too, he is trying to come to grips with, but he does think that he could support what they have done here. This is a start.

Customer Service Manager Threadgill said there are people out there, unless we make it absolutely free, they will never be satisfied either. We tried to address each and every issue brought up by the Commission, by the members of the public and our customers. Realizing that we cannot give it away for free there has to be some revenue stream coming into the community. He understands that we are not in 100 percent agreement but he thinks they have put together an excellent package recognizing all of the comments they have received and have made very generous accommodations. Mayor Boss said he thinks Customer Service Manager Threadgill has done what the Commission has asked him to do. He said because of that he is going to do something that he has not done since he has become Mayor and make a motion.

Mayor Boss moved to approve.

Commissioner Payne seconded the motion.

Roll call vote was taken.

Motion failed with a vote of 3-3-0. Commissioner Sikes, Mayor Pro-Tem Hernandez and Commissioner Martin voted nay.

City Manager Paluch asked if there is anything the Commission would like for staff to go back and look at, that they could bring to you something different. Customer Service Manager Threadgill said just so you realize, now you have rejected this Ordinance there is no sufficient time left in this year to amend the Ordinance. Effective January 1, 2018, we will begin billing the vacant lots and subdivisions per the Ordinance.

Mayor Pro-Tem Hernandez asked City Attorney Schreiber if they could bring this back when the full Commission is sitting. City Manager Paluch said you could table it now, and asked could you not. Mayor Pro-Tem Hernandez said it has already been voted on. City Attorney Schreiber said it has already been voted on. Mayor Pro-Tem Hernandez said it's a tie vote, so we have to do something. Mayor Boss asked if they can make a motion to table this and put on the agenda on December 5, 2017. City Attorney Schreiber said the vote has already taken place so it would have to be a motion to go back, then she said let me think about this. Customer Service Manager Threadgill asked if they could motion to re-consider. City Attorney Schreiber said right, we could do a motion to re-consider, but at that point we called a vote. Mayor Boss asked if the Commission could have discussion. City Attorney Schreiber said yes we are fine to discuss now. Mayor Boss said he still thinks, personally, that we have addressed a lot of the issues that we asked staff to address, to solve the problem for example the billings on the vacant lots for the contractors that are going to start paying the minimum fees. He thinks that the Commission should consider passing this and the reason he says this is because we can come back and modify it later on.

Mayor Pro Tem Hernandez said he appreciates that and he believes that the Commission is being more than fair on the new lots. He said he is talking about lots that are 50 to 100 years old. Some of them have 65 year old water system to them. He just can't support paying even \$5.00 for a service that

you are not getting to an empty lot. That being said, he looks at for instance other public utilities, the power and gas. They do not charge a fee to service you if you are not hooked up. Plus, they do not have late fees; we have a \$10 late fee. It's like we are just trying to make money on it. The other part of it is that we have not been collecting this; we are not going to start collecting this until January of 2018. Take that out and he would vote for it.

Mayor Boss said he agrees with all of what Mayor Pro-Tem Hernandez is saying. Personally he thinks they need to re-visit this entire Ordinance. He asked how many years ago was this adopted. Customer Service Manager Threadgill said the charging of the base rate for inactive accounts was in 2004. Mayor Boss said there were other things though like the amounts for the \$45 fee for deposits. Customer Service Manager Threadgill said those have changed over the years. The deposits started out many years ago like at \$7.00 or something like that. It has grown over the years, just like the rates have grown over the years. This Chapter 28 has probably been revised a couple of hundred times over the years. It has not been a static Ordinance. For a while, every year we were raising rates that are an amendment to the Ordinance. If you want to go back to the very beginning, you have to go back 75 or 80 years to the first water Ordinances. The particular one that started all of this discussion was passed in 2004 when they did away with the \$250 connect/reconnect fee and implemented you pay the base rates minimum. I do understand Mayor Pro-Tem Hernandez's comments, my only counter to that is when we do replace those lines, we are not going to knock on the door or even the sidewalk if there is no building there and ask if you have paid a water bill lately. We are going to replace those services wither someone has been there or not, because we have to supply that water all the way up to the property line. That is our commitment as the Municipal utility. A nominal \$10 fee, I understand it is still a fee, but it is contributing to the overall development of the water/waste water system that is absolutely essential to this community.

Mayor Pro Tem Hernandez said again, every other utility provides that service without charge. They may have it built into their monthly charge somewhere, services and fees or whatever, but there is no extra charge on it. Customer Service Manager Threadgill said we are trying to compare a municipal utility that is landlocked that has a very stagnant customer base with a State-wide or regional public utility that has a much greater customer base, has a much greater ability to shop for funds and investments. It is not quite a truly fair comparison.

City Manager Paluch asked the Commissioners that voted nay, if they are looking for a more consumption based ordinance. Mayor Pro Tem Hernandez said on my part yes because if you have a service to your yard, for instance in my neighborhood, we have so many empty lots which are probably never going to be built on. Because of the owners of the lots and such, they will probably never be built on, so these people are going to pay this even if it is \$10 a month. That is just an additional charge to own that lot and it could be just the fact that their family member owned it and they do not want to sell it or get rid of it. That is kind of where I am right now. He said he has four lots and unless he sells his entire property those lots are going to stay in my name forever.

Commissioner Sikes said the three things she was concerned about seem a lot simpler than a lot of the issues that her colleagues are concerned about. She feels the pain of the people that call her, and for example, the people that live out at Amber Skies. They cannot get their deposits back and they tell me how old they are and how they would just like to get their money back their deposits. If we can address that somehow, she understands that we have to comply with the State Statute, but if there was some way we could do something, if somebody has given us a deposit and we've had it on record for 15 or 20 years, if we could just fairly return it. Customer Service Manager Threadgill said now if you are speaking of renter's deposits being returned. Commissioner Sikes said these are mobile home owners. Customer Service Manager Threadgill said that they rent the property, they are renters. Commissioner Sikes said indeed, if we could come up a way to satisfy that. She then said she had a couple of calls from people who have been in business here in Alamogordo for years and they paid a business deposit for their water. When they went to open up a second business we didn't take into consideration the fact that they have been good business owners for 20, 30, 40 years, we've requested yet another deposit. Customer Service Manager Threadgill said the Ordinance does require that. Commissioner Sikes

asked if there is something that we could do to amend that, fix that, make that more fair to business owners, it just seems that we would want to do that. Customer Service Manager Threadgill said this Ordinance does strip the requirement for business property owners paying a deposit. So if they own the property they don't pay a deposit anymore. Commissioner Sikes asked if they will get their deposit back that they have paid, that they've had on deposit now for 20, 30 years. Customer Service Manager Threadgill said he does not know of any that have been on there for that long, but since their deposit would no longer be required then there would be no need. Commissioner Sikes said then we would return anything.

Mayor Boss said he thinks Commissioner Sikes was out at a particular meeting, but he thinks they are being unfair to staff because he remembers, at this meeting, we pretty much said if you do this then we would consider. He asked if she was at that meeting. Commissioner Sikes said she thinks that she was at that meeting. Mayor Boss said then he thinks they are being unfair to staff. Commissioner Sikes said as long as we are talking about what our wish list is before it comes back to us. She said thirdly, I know we have talked about this before, tying the water rate to the physical location to rather than to the person renting the property. Customer Service Manager Threadgill said excuse me. Commissioner Sikes said we have people complain about how much money they have to pay for water. Customer Service Manager Threadgill said water is purely based on consumption. If they use one cubic foot then they pay .0145 cents for that foot. If they use 100,000 then we are going to charge them for 100,000 cubic feet. Commissioner Sikes said we base their deposit on what the location of what they are renting. Customer Service Manager Threadgill said the deposit is based on: are you are a property owner, we have eliminated that in our proposed Ordinance, if you are a renter and the property owner has not filed a waiver of liability, then the deposit is 140. If the property owner has file a waiver of liability, in which case the City now absorbs that liability for an unpaid utility bill, the deposit is \$210. That is always the property owner's option to take one of those two tracks. It really is the property owner's choice to what deposit the renter is going to pay. Commissioner Sikes said then what we are going to do is get the details of the inquiry and get that to you.

Commissioner Payne said she wanted to address what Mayor Pro-Tem Hernandez was talking about, the empty lots. Are we charging them because they have water access on that property. Customer Service Manager Threadgill said because water and sewer services are available to the property, which means we have a service line from the City mains going to that property. Commissioner Payne said then that means there is a meter on that property. Customer Service Manager Threadgill said they may or may not be a meter. The meter is not the defining issue. That has been a rumor that's floated around here and he thinks it goes back to the old Ordinance prior to 2004, but the meter is not the defining factor. The defining factor is our service line from the City mains, water and sewer, extended and available to the property, because we are responsible for those lines. Commissioner Payne said she completely understood, so how did those service lines get there, because something was on there at one time or did somebody put them there. Customer Service Manager Threadgill said probably because something was on there at one time or it was part of a subdivision. Commissioner Payne asked how hard is it to remove those. Customer Service Manager Threadgill said if those service lines are coming from a main in the middle street, you are going to dig from the middle of the street to the property line. Commissioner Payne said she doesn't know anything about that. She said she is just trying to come up with a solution because I am like well, if they don't have the ability to have access to the property or water access. Customer Service Manager Threadgill said but they do have access. Commissioner Payne said no, what I am saying is if they didn't then we wouldn't be charging them, right. Customer Service Manager Threadgill confirmed that was right. Commissioner Payne said what I was saying is there a way we can fix that. Customer Service Manager Threadgill said there already is in the Ordinance, if any property owner wishes not to pay the monthly base rates they can remove and pay 24 times the monthly base rates plus the cost to remove all of the service to the property. Commissioner Payne said okay and how much is that. She asked if that is the one that is like \$500 or something. Customer Service Manager Threadgill said 24 times the base rate for a typical residence will be \$650 and then depending on where the service lines are, how far they extend into the street. You could be talking about \$3,000 to \$5,000 to remove all of that. Commissioner Payne said so that is not going to work. She then wanted to address that Amber Skies thing because she doesn't

understand why, she said take White Sands Community for example, the water is in the name of the owner of the park and then he just bills each lot.

Customer Service Manager Threadgill said we have different apartments and different mobile home courts do it differently. Commissioner Payne said she gets it, she is just saying that would solve a huge problem. I understand what you are saying because you have to charge because how are you going to separate Amber Skies from the rest of the communities.

City Attorney Schreiber explained if the Commission would like to table this we need to vote to rescind the previous vote. That vote must be made by somebody who voted no or nay, as we voted. At that point, two-thirds of the Commission or four out of the six Commissioners present tonight need to vote yes to rescind the previous motion, and then a motion can be made to table this. She said it is complicated but I can walk you through this motion by motion.

Mayor Pro Tem Hernandez said a couple of things. One to address the Amber Skies thing is, what happened is they did the same thing that they would do in any other subdivision. They put in the water system, put in the individual meters and gave the system over to the City. Instead of having one meter and then they still own the system, so if there is a break in the system the City fixes it not Amber Skies. That is the reason for doing that. He asked if we have collected any of the fees on the empty lots on the sub dividers or any of the base rates on section one. Customer Service Manager Threadgill said under section one for the developers, no. The existing two year exemption expires December 15th this year. Mayor Pro-Tem Hernandez said so we have not collected anything under section 1. Customer Service Manager Threadgill said on the subdivisions, no sir. Mayor Pro-Tem Hernandez said anything on section one. Have we collected any money on empty lots. Customer Service Manager Threadgill said no; remember section one as it is currently written only applies to lots and subdivisions. Mayor Pro-Tem Hernandez asked if we have collected any fees on empty lots in my neighborhood, for instance. Customer Service Manager Threadgill said he is sure we have. He does not know how many empty lots there are in the community. We find out where services are available, we attached an address to it and when we find them we locate the owner and bill the owner for those services. Mayor Pro-Tem Hernandez said you really couldn't get me a number of how much, what he is trying to get at is we haven't really seen a big fee in this, a big charge in this and so we haven't really been collecting a big part of this so what are we losing. Customer Service Manager Threadgill said on subdivisions, no. he said he still can't support it. He agreed with City Attorney Schreiber, he thinks we need to probably wait till the full Commission is there, there isn't any way to have a tie then.

Commissioner Sikes asked City Attorney Schreiber that one of the Commissioners that voted nay, needs to make a motion. She answered to make a motion to rescind the previous vote taken.

Commissioner Sikes moved to rescind the previous vote taken.

Mayor Pro-Tem Hernandez seconded the motion.

Roll Call vote was taken.

Motion carried 6-0-0.

Mayor Pro-Tem Hernandez moved to table this item.

Commissioner Sikes seconded the motion.

Roll Call vote was taken.

Motion carried 6-0-0.

City Manager Paluch asked if there is anything that the Commission is directing staff to look at within this Ordinance, changes to be made or would you like this to come back as is. Commissioner Martin said she could not support an Ordinance that charges vacant properties \$30, sorry vacant rentals \$10. City Manager Paluch asked if she was talking about rentals where there is a house on it. Commissioner Martin said where there is a house on it. Customer Service Manager Threadgill said this Ordinance would have reduced that, for a typical residence because it is all based on meter size, to

\$13.90 plus a \$1.00 capital surcharge. That is what you rejected today. He said you also rejected the exemption for the subdivisions.

City Manager Paluch asked if the Commission would like for staff to bring back a consumption base Ordinance. Mayor Pro-Tem Hernandez said that is pretty much what we had in the past and we've seen a dollar increase a year. Customer Service Manager Threadgill said the City has not had a true consumption based system since the 1960s, because there has always been that base rate or minimum charge per month. To revert back to a total consumption we would have to first figure out what the new rates are going to be and with my quick calculations because it would take complete rate analysis, the new consumption rates would start at our current tier 3. We would also need to clarification or authorization from NMFA, because we have loans and bonds that are secured by these steady revenues, the base rates that have been in force for a period of time now. There are a few hurdles that we would have to cross before we could go to a pure consumption base system. Commissioner Payne asked what is tier three and what does that start at. Customer Service Manager Threadgill said right now tier three is \$3.90 per hundred cubic feet versus \$1.45 is our current tier one per hundred cubic feet for a typical residence. Commissioner Payne asked what the consumption for a typical residence is. Customer Service Manager Threadgill asked summer or winter, it varies. Commissioner Payne said let's say winter. Customer Service Manager Threadgill said we are looking about 1000 cubic feet per month that is a twelve month average. Winters can go down to January 500 to 600 cubic feet, but during the summer our overall usage almost triples between January and July, August.

Mayor Boss asked Customer Service Manager Threadgill how difficult it would be to look at Las Cruces, Roswell and another City similar in size. Let the Commission see exactly how we compare for amount of water use and how their charges are. Customer Service Manager Threadgill said he can update the one he gave the Commission six or eight months ago which showed us in the middle. Mayor Boss said it showed us in the middle, but line by line showing what the base rate is and the charges affected by that. Customer Service Manager Threadgill said he understands what he is saying, but as he explained at that Commission meeting when he presented that information as a broad picture is that doing a line by line example let's say base rates for water. The problem is some communities include in their base rate say 500 cubic feet of water, other communities include zero water. Some communities have a very low base rate but then there, per unit cost is much higher. Without looking at the financial structure like in our case, our debt service is there, we pay a franchise fee. Mayor Boss said he is sure they are doing the same thing too. Customer Service Manager Threadgill said based on what he has seen, no two are exactly alike. Mayor Boss said that is probably true, but they are accomplishing the same goals. They have repairs and maintenance on the water. Customer Service Manager Threadgill said to one degree or another, yes sir. Mayor Boss said that's the point. He is looking if there is a different formula for a way to do this. Customer Service Manager Threadgill said he is sure there is.

City Attorney Schreiber said she and Assistant City Manager Cesar have very different water bills and they have looked at them. She said he waters his lawn and she is a very average citizen. One of the things they talked about it is actually bringing their water bills and having Customer Service Manager Threadgill look at what it would look at on a consumption only system and how it would affect someone who has a very green lawn and waters their lawn and might go up to tier three in the summer versus somebody who pays very averagely every month. Mayor Boss said he did the very same thing on properties that he and his wife have. He looked at a business property, rental properties and a residence. It bothered him when the rate was \$30, and they are reducing that to \$10, that he had water for a whole month and the person that had used absolutely zero water had a bill that was within \$5 of mine. City Manager Paluch said she is sorry, you might be confused on what she said, what they are talking about is they have looked at their average water bill on what it would look like on a consumption only based system, so you could see somebody like Assistant City Manager Cesar who has a very lush, very green yard, front and back, what it would look like if you switched to that system versus an average user who showers, has a pool and flushes her toilet, which does not use a lot of water, what that would look like on a consumption only system.

Commissioner Payne said because the rate is going to change. It is going to start at \$3.45 per hundred cubic feet. She asked Customer Service Manager Threadgill if that was the amount that he said. He said it was \$3.65. She said if you use 3,000 cubic feet in the summer the bill is going to be \$110 a month. She said she is going to be mad if she has to pay \$110 a month for a water bill. Customer Service Manager Threadgill said but your water bill in January will be \$12 or \$15. Commissioner Payne said it doesn't matter, that is not the point, the point is she is xeriscaped in the front yard; she does water their back yard but not tons. She would not be happy, especially if it is a homeowner who has xeriscaped front and back yard and they are going to have to pay \$100 a month. She said she is sorry, but she has an issue with that one.

Mayor Pro-Tem Hernandez said when Alamogordo went to a tier system, Alamogordo also went brown, and we lost a lot of trees and everything else. Now we are being told that if you don't do this you are going to a tier three system. He said he is not mad, he is pissed off. There are other ways to do this, then to threaten me to go to a tier three system right off the bat. We went from a thirty dollar charge to a ten dollar charge and there is no problem with that. He is asking to eliminate the \$10 charge and you are telling me that the difference in, my normal water bill in the summer is about \$65, so it is going to go to over \$100. That is \$40 a month extra. That means he is paying for four lots, everybody else for four lots at this rate, the \$10 rate. How many meters do we have, how many people we have on service, a thousand, so that is four thousand that we are doing here by the \$10. He does not agree that we have to go to a tier three system and have that high of a rate, because we are not going to approve a \$10 fee. That is basically where we are at here, because Commissioner Sikes has one issue, there are a couple of other issues here, but for me you have your four votes, if you get rid of that \$10.

City Manager Paluch asked Mayor Pro-Tem Hernandez his opinion on a base rate including a small percentage of water like some of the other communities. Mayor Pro Tem Hernandez said if they use water then pay for that water. If you are using any kind of water then you pay for it. If the meter is turned off or this no meter to begin with, there is just service to their property then I don't think there should be a fee. City Manager Paluch said but you are just talking about the vacant lots, Commissioner Martin you are talking about any place where there is a home. Mayor Pro-Tem Hernandez said anything, if the meter is turned off. We had an issue a couple of years ago where Customer Service Manager Threadgill sat here in front of us and the issue was that people were going and turning on their water. City Manager Paluch said sure, people do it all the time. Mayor Pro Tem Hernandez said absolutely and they break off the locks and he said they can manufacture a lock that could cover the top, a clasp lock; they can still cut the locks, whatever. We will charge them criminally. He has no problem with that, he does not care if it his neighbor, I don't care if it is his brother or sister, if they are breaking the law charge them criminally. You cannot have free water, absolutely, but if they are not using water he can't support charging them for it, at all.

Commissioner Payne asked when we were not collecting those fees regularly the bill was going up every year, right. Customer Service Manager Threadgill said rates were increasing every year. Commissioner Payne said maybe that is the solution. Customer Service Manager Threadgill said rates impacted those that we call them active accounts. If you had water service to your property, but there was nobody living there or it was a vacant property, even though we had to maintain those lines, there was no charge for that. Commissioner Payne said Commissioner Martin doesn't like it because there are empty rentals, she totally agreed with what Mayor Pro-Tem Hernandez was saying. Her only issue with that is for goodness sakes do something with that lot. She said she gets it, but do something with that lot. If it has been 50 years and you have done nothing, sell the lot, do something because it is a little disingenuous to say I cannot afford to pay this \$10 a month, but you own the lot, do something with it, because she does not think that is right either. She thinks you are asking the City to make all these contingencies for you but you do own a piece of property that has value. Again she gets what you are saying but at the same time I'm like either you are going to do something with it or not. That is neither here nor there, that is a personal decision. She thinks they are beating a dead horse here and she is kind of wondering if they should go back to rate increases.

Customer Service Manager Threadgill said the simplest solution to this, from he is hearing from a majority of the Commission, is to repeal those portions of the Ordinance that were adopted in 2004 and clarified in 2015 that people that have service don't have to pay base rates, if there is not anybody living there. We can then go back and adjust the rates to make up that difference, that difference in money is going to have to be made up so we can go ahead and increase the rates across the board and go back to the old cycle of annual or bi-annual rate increases. The most convenient way out of this is just repeal those portions of the Ordinance, Chapter 28, that say if you have a lot serviced by the Municipal utility you are responsible for, at a minimum, the monthly base rates. Do away with the disconnection fees, the reconnection fees and go back to when everybody was happy before. Then we could go back to rate increases on those active accounts to keep the cash flow going to cover the operating expenses and the capital projects that we've got going.

Mayor Pro Tem Hernandez said he would also look at maybe getting with the Contractor's Association and see if we could go back to the, because I believe if I remember right they did not have a problem with, a \$250 connection fee when they put the meters on to see if that's another way. He said he believes they were all in agreement with that. Let's talk to them to see what that is and that would be an additional amount whenever that kicks back up. He said he thinks it is fixing to start. Mayor Boss asked where are we going to go from here. The meeting that we tabled this before, we are exactly where we were then. Customer Service Manager Threadgill asked what Ordinance would you like for us to bring back to the Commission to get rid of this. He asked the repeal of everything. Mayor Boss said he thinks you brought back exactly what we asked you for at the last meeting. Customer Service Manager Threadgill said the Commission is the board of directors of the municipal utility. If you say repeal, we want something that repeals all of these charges, that none of us can agree to, and then staff will bring back an Ordinance that repeals those sections.

Mayor Pro-Tem Hernandez said section one is the one I have the biggest trouble with and that's billing for nonuse. If we can figure out a way to get around that, everything else is there. Customer Service Manager Threadgill said no disrespect Mayor Pro-Tem Hernandez but you have a problem with the vacant lots, Commissioner Martin has a problem with any lot that is not occupied. Mayor Pro-Tem Hernandez said he is in the same place. Customer Service Manager Threadgill said that tells me and there has been comments by others that the only Ordinance that is going to pass by this Commission is one that repeals all of those charges and we go back to the way we previously handled these things otherwise I'll be back with another Ordinance that someone is going to have an issue with and, like you said, we can beat this dead horse till it's pulp.

Mayor Boss asked what do we want to do. Customer Service Manager Threadgill said we will write any Ordinance the Commission says this is what we want. Mayor Boss said we know that you will and I think that you did that when you brought this one to us from our last meeting. Customer Service Manager Threadgill said I tried. Mayor Boss said I think you did and I guess people have changed their minds on it. City Manager Paluch said the Commission can certainly change their minds; it is not a big deal. We'll bring back whatever you want us to bring back. Mayor Boss asked if they want to take out the section one. Commissioner Turnbull asked Customer Service Manager Threadgill if he took out that \$10 and made it zero he would have to put back that \$25 transfer fee for a vacant rental. If we tried to do away with that wouldn't that also do away with that waiving of that \$25. Customer Service Manager Threadgill said what we brought back at the last meeting; the \$10 was brought up a number of times in different contexts. The problem with creating a new special base rate for particularly rental properties is the manual work that's involved with having to go in and make sure the right services when you are a renter are active, but now it goes back to the owner, we have to deactivate all of these and activate all of these. Our compromise on the vacant rental properties was keep the base rate based on meter size. That exists already, we don't have to do anything special, it's already there, we are not adding anything, and we are not deleting anything. We can still work with that automatic transfer thing, we created a special \$10 base rate specifically for those properties on which no structure exists, recognizing that there is nothing there, it is a vacant piece of land, and it still has service so we are still supporting that all the way up to the property line. That is their fair contribution to the system. Those don't change hands. That's the difference between the two, if we create a new one just for

vacant rental properties, now we've got to remember every time it goes to the new owner to undo all of these and do all of these otherwise you are going to be charged. When we go backwards we have to undo all of this for the owner and do all of this for the renter or they are going to get undercharged. So that automatic transfer cannot take effect, because we have to go in and make sure that those services are correct.

Mayor Boss asked if we have looked at what other cities do for vacant lots, I know we did for base rates, but did we actually see or does Las Cruces charge for vacant lots. Customer Service Manager Threadgill said he could not answer that. Mayor Boss said that is a question that he would like answered. He would like to see what Carlsbad, Roswell and other cities that are around us of similar size do. I would like to know what they do on their vacant properties.

Mayor Pro-Tem Hernandez thanked everyone for their hard work. We have people that we answer to too. Customer Service Manager Threadgill asked if they bring something back. He said he is unclear as to what step they take at this point.

Mayor Pro Tem Hernandez said a recommendation, we have an obligation. What would it take to meet that obligation. He said he understands the easy way out is to go to tier three. Customer Service Manager Threadgill said you misunderstood what is going to occur if we do that. The question was do we go to a consumption based only system based on my quick calculations, our first tier would now be what we are calling tier right now. There would still be some adjustment in there. There would be no base rates at that time, so if you used 100 cubic feet of water you would get a bill for \$3.65. If you used a 100,000 cubic feet of water, you would get 10,000 times \$3.65, but it would fluctuate every month. Mayor Pro-Tem Hernandez said what I am saying is let's see what it takes to meet that obligation plus whatever else we need to do. Figure it out that way cause part of this we haven't been paid yet, we've been since 2004 kind of not been using it. I want to make it fair for everybody. I want to pay my fair share, in fact I don't have empty lots, I have two lots that I have water that I am paying full rate on them and my consumption is close to zero every month, but I choose to do that. The empty lots that I talked about, and I think Commissioner Martin will support me on this, they are not sellable, even if I wanted to sell them, unless I sell my entire property I cannot sell a 50 by 150 foot lot. Nobody is looking for those, nobody wants to build a house in my neighborhood because the two or three that have been build there are still on the market. Commissioner Martin said they have been for years. Mayor Pro-Tem Hernandez said it's not that I don't want to sell it; it's that I can't sell it. Mayor Boss said this is exactly what we asked you to bring to us. He asked if Customer Service Manager Threadgill feel that. He answered 99 percent, we've made some compromise. Mayor Boss said the Commission asked for this, why we can't adopt this. In every situation it is better for the consumer out there. We are taking the \$70 out here and \$70 out here, we are taking the fees out, and we've reduced from \$30 to \$10. Why can't we adopt this and buy some time and it's better, it's not as perfect. City Manager Paluch said you cannot adopt this, this evening this was tabled. You took a vote it's tabled, you cannot take another vote on this, this evening. Another point of clarification, when Customer Service Manager Threadgill says that we could repeal this section of the Ordinance and go back to what we were doing in 2015, I believe. Customer Service Manager Threadgill said by practice we could go back. The Ordinance was still there, we just didn't consistently enforce it. City Manager Paluch said if we did that please correct me if I am wrong, the fees would not go up to tier three, they would increase overall for the consumer for sure, but they would not drastically increase, so I want the Commission to realize that.

Commissioner Martin said I hear what you are saying, but I get the calls from real estate investors and people who have their property rented all the time, not that they don't feel that they should pay if they are not using it and I agree with them. Mayor Boss said I get the same calls that you get. Customer Service Manager Threadgill said I get them all the time myself. Mayor Boss said I also have the belief that although there is a limit to the value, I'm the belief that if you have a water line in front of your house and have access to water you should pay something. Not \$30, maybe \$10. Commissioner Martin said okay, we differ on that belief. Customer Service Manager Threadgill asked what they would like for them to bring back or would you like to forget this for a while.

Mayor Boss asked what the Commission wants. Customer Service Manager Threadgill said a repeal of all of this. City Manager Paluch said what we have so far is that staff will do some research to see what some other cities are doing, fees for vacant lots and see what other cities are doing for that, we can bring that information back to you. Commissioner Martin said maybe a comparison of an average household base rate versus consumption based. City Manager Paluch asked for this City, because we cannot do that for any other City. The problem is, like Customer Service Manager Threadgill said at a previous meeting, when we start looking at other Cities you are not comparing apples to apples. Commissioner Martin said no, I know what they we're talking about. Mayor Boss asked to say that again, because we are not comparing apples to apples. City Manager Paluch said like Customer Service Manager Threadgill said on several occasions, Cities may consist of different things than our base rate does. It is not comparing apples to apples there is no way to do that. Mayor Boss said it is not apples to apples wither or not they have a vacant lot or charge for vacant lots, right. Customer Service Manager Threadgill said true, but as far as comparing, as I brought to the Commission when we started this discussion there were certain assumptions that had to be made across the spectrum of the eleven communities that were, because again, the way each community calculates their charges has established their base rates, has established their consumptions rates some are in the gallons some are by the cubic feet some charge by the cubic feet we charge the hundredth cubic feet. The rates are scattered all over, so taking at an average we took all of them together and said we are right in the middle. Mayor Boss said you can convert cubic feet into gallons; you can make those comparisons very easy. Customer Service Manager Threadgill said you are right, but the change has happened and that is why we had to come up with a set of parameters, an average user if you will, 1,500 cubic feet of water, 750 cubic feet of sewage, if you really want to get complex you go to the sewage side of it, we used a winter quarter average. There are communities that charge 90 percent or 100 percent of your water usage is also calculated as your sewer usage. Other use a much different percentage so trying to factor those in, anyway, we came up with a set of number or parameter so if you used 1,500 cubic feet of water of this and 750 cubic feet of sewage and you applied these rates, again making conversions for gallons and cubic feet and how they charge for sewage. Clovis charges by how many drains you have in your house. So how do you figure that out.

Commissioner Payne asked if they go and count the drains. Customer Service Manager Threadgill said yes they do as a matter of fact.

Mayor Boss said what we want to see is if we repeal the portion of it on the vacant lots, what effect that is going to have on revenue and how much we would want to increase rates. Is that what we want, to make up for the revenue that we need. Customer Service Manager Threadgill said if all we are talking about is the \$10 on vacant lots, and I mean no structure on them, no offense to Commissioner Martin, but this does not include rental properties. Mayor Boss said actually talking about \$30 because we never made it \$10. Customer Service Manager Threadgill said right, but you asked a question about how much is that going to change. The \$10 on the vacant lots, if we did away with that, and I don't know how many vacant lots exactly there are, I can't imagine it as a significant amount of our revenues, because we have far more lots with structures on them then without. However when that translates over to the rental properties, those with structures on them that are rented part of the year, not rented another part of the year and that fluctuates greatly. Now we are talking a much greater fiscal impact.

Mayor Boss said so that we need to see the impact of that also. What I have heard here is we don't want the minimum rate on vacant lots, if you've got a rental or any property that you have that's got a structure on it and you are not using water, you don't pay a bill. Customer Service Manager Threadgill said and that's why I said to just repeal sections of that Ordinance that reflect that and we'll go back. Mayor Boss asked the Commission wants them to bring back. Commissioner Martin agreed. Mayor Pro-Tem Hernandez said you got my vote if you do that. Mayor Boss asked if that is a consensus kind of sort of. Mayor Pro-Tem Hernandez said well there are four votes. City Manager Paluch said we will bring that back and then we will bring back an estimate of what the increase would be across the board for water rates. Mayor Boss said he would like to see some comparisons from other cities on what they are doing in that regard. I mean I understand different formulas and all that. Customer Service

Manager Threadgill asked in regards to rates or in regards to charging vacant lots. Mayor Boss said charging for vacant properties.

Mayor Pro Tem Hernandez said this is what makes government really hard, because if you guys were able to talk to us, wither individually or a group, we could hash these things out and I understand why we can't because of other reasons. It is things like this where staff cannot just call me, or even if they only call me, and say what is it that you need fixed. We have to do it here and so it may take another two weeks, four weeks, six months, but that is what we do because we have to keep it open. City Manager Paluch thanked mayor Pro-Tem Hernandez for mentioning that.

NEW BUSINESS

8. Consider, and act upon, Ordinance No. 1553 for first publication to amend Ordinance No. 1515, which was adopted on May 24, 2016 regarding the execution and delivery of a loan agreement and intercept agreement by and between the City of Alamogordo, NM and the New Mexico Finance Authority. (*Julianne Hall, Finance Director*) (Roll Call Vote Required)

Finance Director Hall said on September 28, 2017 the New Mexico Finance Authority (NMFA) voted to approve the City's request to re-dedicate some funding that was originally intended for the Natatorium project. That rededication is now for various parks and recreation projects and that totals \$2,014,639.00 and that does include the Kids Kingdom rebuild. This particular Ordinance is just to amend the original Ordinance for that rededication for first publication.

Mayor Pro-Tem Hernandez moved to approve.

Commissioner Turnbull seconded the motion.

Roll Call vote taken

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

9. Consider and act upon, fee waiver of \$740.50 for AECOM for a two-day job fair at the Civic Center on November 28th and November 29th, 2017. (*Maggie Paluch, City Manager*)

City Manager Paluch pointed out that there is a correction under the fiscal impact, instead of reading \$592.50 that should read \$740.50. The reason for that error is originally AECOM had said they are a non-profit entity, they are not, they are a for profit entity. The amount that's being requested waived by the Commission is the \$740.50 and that would be the for-profit cost to rent the Civic Center for November 28th and 29th.

Mayor Pro Tem Hernandez said he had actually spoken to City Manager Paluch on this and he had offered to sponsor this. City Manager Paluch suggested that we do it this way so that the Commission did it as a whole. The precedence has already been set, so I did not have a concern with that, but I support this 100 percent. It is jobs to Alamogordo. Mayor Boss said I think we all do. Mayor Pro-Tem Hernandez said I think it is something that we need to do.

Mayor Pro-Tem Hernandez moved to approve.

Commissioner Sikes seconded the motion.

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

Mayor Boss said just for the record, so that everyone knows. That is the organization that is doing the hiring for the maintainers of Holloman Air Force Base on the F16s which is very, very important to Alamogordo and I think we have done the right thing by approving that.

City Manager Paluch said she wanted to clarify one thing, if we look there will be a damage deposit of \$85 and \$65 would be refunded to AECOM. Mayor Pro-Tem Hernandez said that is very minimal.

EXECUTIVE SESSION (Roll Call vote Required)

10. Adjourn into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss Threatened or Pending Litigation; specifically a case update on all cases being handled by the Self Insurers Fund and an update on all EEOC complaints. (Roll Call Required)

Mayor Pro Tem Hernandez said we have very much to be thankful for this time of the year, this season. He thanked everyone for everything they do. He said he serves under a board like you serve under, except his Board is pretty nasty to him sometimes. He tries to think about that every time when he deals with staff, because he does not want to be that way. He said if he does, he said he is sorry but thanked staff for everything they do and wished them a Happy Thanksgiving.

Commissioner Payne moved to adjourn into Executive Session at 8:44 p.m.

Mayor Pro-Tem Hernandez seconded the motion.

Roll Call was taken.

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

ADJOURNMENT

Mayor Richard Boss

ATTEST:

City Clerk Rachel Hughs

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on December 5, 2017.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 08/15/2017

Report No: 3.

Submitted By: Rachel Hughs

Subject: Approve the statements related to the Executive Session held on November 21 , 2017. *(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 December 5, 2017: "The Governing Body of the City of Alamogordo, New Mexico, hereby states that on November 21, 2017 a Closed Executive Session was held and matters discussed in the closed meeting were limited only to: Threatened or Pending Litigation; specifically a case update on all cases being handled by the Self Insurers Fund and an update on all EEOC complaints.

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

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/30/2017

Report No: 4.

Submitted By: Evelyn Huff

Subject: Approve Resolution 2017-36 requesting the approval of the Housing Authority Resident Staff Member Occupancy Plan. *(Evelyn Huff, Housing Authority Manager)* **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the resolution

Background: The Department of Housing and Urban Development allows housing authorities to designate one unit per development as a resident staff member unit. Beginning in 2007, the Housing Authority began to participate in this program at the Alta Vista development. Since the main office is not located at Alta Vista, a resident staff member increases the staff presence at this location. The resident staff member does not pay rent in exchange for their presence in the neighborhood and their assistance with issues that arise. This has been a very successful program for the Housing Authority and has helped improve the overall environment of the development. HUD requires a review and a recertification of the program every seven years. The Housing Authority Board has recommended the continuation of the program.

PHA Occupancy Plan for Resident Staff Member

Objective

The PHA main office is not located at the Alta Vista complex, therefore to increase staff presence a PHA staff member will reside at Alta Vista. It is the belief of the PHA that more visibility is required due to increased lease violations occurring at this site.

Plan

The resident staff member will reside at the Alta Vista complex and be exempt from paying rent and in return will be obligated to perform specific duties during the person's off hours. The staff member will be required to comply with the following procedures and the attached lease agreement.

The resident staff member will be required to:

1. Use the unit as their main residence
2. Pay any applicable deposits
3. Pay the gas, water and electric bills for the unit
4. Immediately report any criminal activity to the Department of Public Safety and notify the office the next morning; major events, i.e. fire, death, will be called into the Manager at the time of the occurrence.
5. Conduct an official walk through of the complex on Tuesdays and Fridays. At which time the resident staff member will:
 - a. Observe the operation of the security lights
 - b. Observe any tangible lease violations, i.e. trash on porch, inoperable vehicles, extra tenants
 - c. Observe any pattern behavior, i.e. partying, parking violations
 - d. Observe any vandalism, abandonment or any other items that need attention
 - e. Report any violations or observations to the Property Manager
 - f. Submit work orders to maintenance for any observed repairs needed throughout the complex

The resident staff member will not:

1. Enter any unit while not on duty under the auspice of being a City of Alamogordo employee
2. Make any unauthorized alterations to the unit

If the staff resident is a maintenance employee the following guidelines apply:

1. When on call, the resident staff member will respond to emergency calls in the same procedure as any other emergency calls
2. When not on call, the resident staff member will not respond to emergency calls, except to give minor abatement to large emergencies
3. Will not do any maintenance for any tenant outside of scheduled duty hours

LEASE AGREEMENT

STATE OF NEW MEXICO COUNTY OF OTERO

This lease agreement is made and entered into by and between the Housing Authority of the City of Alamogordo, Otero County, New Mexico and Staff Member of the HA _____, in consideration of the mutual covenants hereinafter set forth and agrees as follows:

1. The Staff Member and his/her immediate family (Tenant) hereby leases the following described premises located in Alamogordo, NM: _____.

The lease shall be for a period of one year beginning on the _____ day of _____, 20____, and ending _____ unless terminated by mutual agreement of the parties hereto or by the terms of the Contract.

The lease agreement shall be automatically renewed for a successive term of one year at the end of its term unless either party provided thirty (30) days written notice to the contrary.

The Tenant and family shall comply with all the rules and regulations which are signed, attached and become a part of this lease agreement.

2. The Tenant will forgo paying rent to the Housing Authority and will comply with HA Occupancy Plan for Resident Staff Member (see attached) agreement.
3. The Tenant will be responsible for payment of water, electricity and natural gas. PHA will be responsible for payment of garbage.
4. A Security Deposit of two hundred dollars (\$200.00) will be held by the Housing Authority toward reimbursement of the cost of cleaning and repairing any damages beyond normal Wear and Tear to the Unit and/or premises caused by the family or guests. Payment of the Security Deposit is to be made upon occupancy and any refund of the Deposit due the occupant will be refunded within thirty (30) days after the Occupant yields possession of the keys to the Unit to the Housing Authority.

The Housing Authority agrees to maintain the premises and the project in a decent, safe and sanitary condition. Maintenance and repair work (beyond normal wear and tear), will be billed to the Tenant. Payment for such charges shall become due and payable two (2) weeks after the Housing Authority gives written notice of the charge.

The Housing Authority will not be responsible for any loss, liability or expenses (including attorney's fees) due to fire, theft, or accident or any other events occurring on the premises or site. It is the occupant's responsibility to provide for their own "Renter's Insurance."

In Witness Hereof, the parties have executed this Lease Agreement on this _____ day of _____, 20____.

Staff Member Signature

Co-Head Signature

PHA Manager

RESOLUTION NO. 2017-36

**A RESOLUTION REQUESTING APPROVAL OF THE RESIDENT STAFF MEMBER
OCCUPANCY PLAN**

WHEREAS; the Housing Authority has determined a need for an increased presence of staff at the Alta Vista development; and

WHEREAS; the Housing Authority may elect to designate housing units to be occupied by a Housing Authority employee and family; and

WHEREAS; a special lease agreement will be instituted for the resident staff member which will outline the parameters of their residency; and

WHEREAS; the Housing Authority Advisory Board has recommended the approval of the resident staff member occupancy plan;

BE IT THEREFORE RESOLVED by the City Commission of the City of Alamogordo, New Mexico; that the law enforcement officer occupancy plan is approved

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Alamogordo this 5th day of December, 2017.

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico Municipal Corporation

By: _____
Richard A. Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Schrieber, City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/28/2017

Report No: 5.

Submitted By: Petria Schreiber

Subject: Approve the release of old liens that have passed the four-year statute of limitations on collection.
(*Petria Schreiber, City Attorney*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the Release of liens to be prepared and filed with the Otero County Clerk.

Background: The liens attached have passed the four-year statute of limitation on collection and must be released. There are a few liens that have been paid, but were never released.

December 5, 2017 City Commission Meeting
LIENS

Owner Name	L#	Lien Address	Lien Amt	Filed	Lien Type
Anderson, Lance	601	1305 Casady Drive	\$ 845.93	8/17/2012	water
Bank of New York Mellon	1195	1521 Harvard Ave.	\$ 442.16	12/19/2012	weed
Bouie, Jesse	1104	115 Texas Avenue	\$ 683.47	6/14/2011	weed
Bruer, Mary	1187	1201 Cuba Avenue	\$ 432.47	10/3/2012	weed
Driscoll, Kenneth	1115	1002 12th Street	\$ 844.63	11/30/2011	weed
Durrett, Lori	1146	1522 Roosevelt Ave.	\$ 409.63	5/11/2012	weed
Foster, Christopher	1177	1200 Adams Avenue	\$ 334.53	8/17/2012	weed
Godinez, Stephen	1096	1809 Arizona Avenue	\$ 436.58	5/7/2011	water
Henderson, Diane	1172	702 Dewey Lane	\$ 432.47	8/17/2012	weed
Huzella Development Co.	1138	2200B First Street	<i>Paid</i>	2/17/2012	weed
Hyland & Metoyer	1188	1444 Discovery	\$ 330.23	10/3/2012	weed
Jamie Venture GP	1203	1505 US Hwy 70W	<i>Paid</i>	12/7/2012	weed
Leonard, Aaron	1165	1402 Circle Dr.	\$ 503.15	7/6/2012	weed
Martin, Steven	1129	508 Maryland Ave.	\$ 361.16	2/17/2012	weed
Pflug, Linda	1100	3002 Del Sur	\$ 334.30	6/15/2011	weed
Pflug, Linda	1196	3002 Del Sur	\$ 361.44	12/7/2012	weed
Richards, Donald	1106	102 Texas Avenue	\$ 5,941.29	7/27/2011	demo
Romero, Max	1107	1513 American Way	<i>Paid</i>	8/25/2011	weed
Sandoval, Adelina	1164	1509 12th Street	\$ 567.65	7/6/2012	weed
Trent & Cuesta	1147	1507 Roosevelt Ave.	\$ 335.45	5/11/2012	weed
Wheeler, Gregory	1090	993 Dora Street	\$ 349.74	2/1/2011	weed
Wheeler, Gregory	1122	993 Dora Street	\$ 382.64	2/17/2012	weed
Wheeler, Gregory	1162	993 Dora Street	\$ 363.40	7/6/2012	weed
Wilson, Walter	1159	1013 15th Street	\$ 403.18	5/11/2012	weed
Zemp, Peter	1134	111 N. White Sands	<i>Paid</i>	2/17/2012	weed
Zybert, Alexander	1160	1444 Post Avenue	\$ 377.38	5/11/2012	weed

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/30/2017

Report No: 6.

Submitted By: Katie Josselyn, Maggie Paluch

Subject: Consider and act upon first publication of Ordinance No. 1547. An ordinance repealing Appendix B (Employee Manual) of the City of Alamogordo Code of Ordinances, and replacing it with a new Employee Manual. (*Katie Josselyn, Human Resources Director and Maggie Paluch, City Manager*) **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance No. 1547 for first publication.

Background: Staff presented a new Employee Manual to Commission during the November 7, 2017 Commission meeting, requesting authorization for the City Manager to develop and implement an employee manual at their discretion.

Staff amended the proposed Employee Manual, retaining the Commission's authority over the Employee Manual.

Amendments were also made to the Compensation Plan section. The estimated cost of this new plan, had it been in place over the past year, is \$4,180. This difference is subjective from year to year based on personnel actions taking place during any respective fiscal year. However, the new plan provides a defined compensation plan.

ORDINANCE NO. 1547

**AN ORDINANCE REPEALING APPENDIX B (PERSONNEL MANUAL) AND
OF THE CITY OF ALAMOGORDO CODE OF ORDINANCES AND
REPLACING IT WITH A NEW EMPLOYEE MANUAL.**

WHEREAS, the City of Alamogordo finds it necessary to maintain a manual for all of its personnel policies;

WHEREAS, from time to time that manual must be updated to come into compliance with local and federal laws;

BE IT THEREFORE ORDAINED by the City Commission of the City of Alamogordo, New Mexico that Appendix B of the Code of Ordinances is hereby repealed and replaced with the attached new Employee Manual.

DONE this ____ day of _____, 2017.

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico municipal corporation

By: _____
Richard Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Schreiber, City Attorney

City of Alamogordo

Employee Manual



11/21/2017

ABOUT THIS HANDBOOK/DISCLAIMER

We prepared this manual to help employees find the answers to many questions that they may have regarding their employment with City of Alamogordo. Please take the necessary time to read it.

We do not expect this manual to answer all questions. Supervisors and Human Resources also serve as a major source of information.

Neither this manual nor any other verbal or written communication by a management representative is, nor should it be considered to be, an agreement, contract of employment, express or implied, or a promise of treatment in any particular manner in any given situation, nor does it confer any contractual rights whatsoever.

No City representative other than City Manager may modify at-will status and/or provide any special arrangement concerning terms or conditions of employment in an individual case or generally and any such modification must be in a signed writing.

Many matters covered by this manual, such as benefit plan descriptions, are also described in separate City documents. These City documents are always controlling over any statement made in this manual or by any member of management.

This manual states only general City guidelines. The City may, at any time, in its sole discretion, modify or vary from anything stated in this manual, with or without notice, except for the rights of the parties to end employment at will, which may only be modified by an express written agreement signed by the employee and City Manager.

The official manual is on the City website located at ci.alamogordo.nm.us, and is maintained by Human Resources.

This manual is subject to the terms of any applicable collective bargaining agreement and the Labor Management Relations Ordinance.

This manual supersedes all prior manuals.

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Section 1 - Governing Principles of Employment

1-1. Introduction

For employees who are commencing employment with City of Alamogordo (or the "City"), on behalf of City of Alamogordo, let me extend a warm and sincere welcome.

For employees who have been with us, thanks for your past and continued service.

I extend my personal best wishes for success and happiness here at City of Alamogordo. We understand that it is our employees who provide the services that our citizens rely upon, and who will enable us to create new opportunities in the years to come.

Margaret D. Paluch, City Manager

1-2. Glossary of Terms

ANNIVERSARY

The date on which an employee was appointed to a regular position or the date of promotion/demotion/transfer.

APPEAL

A formal or informal process for requesting a change to an official decision.

AT-WILL EMPLOYEES

Those who serve at the will and pleasure of the City Manager or his or her designee and may be terminated at any time with or without cause and may not appeal such termination, except under certain contractual conditions.

BENEFITS

Taxable or non-taxable remuneration and/or services provided by the City which are separate and in addition to basic pay for time worked.

CITY

The municipal government, composed of the City Commission, the City Manager, all departments, divisions, agencies, and employees which comprise the organization design to provide service to the citizenry.

CITY COMMISSION

The duly elected or appointed officials who comprise the legislative body of the municipal government with powers defined by New Mexico Law.

CITY MANAGER

The municipal government's official who directs the administration of a City, or a person designated to assume the position on an acting basis, charged with complete responsibility of employees, facilities, and other resources set forth by New Mexico State Law and the City Charter.

CLASS

One or more positions that are sufficiently alike in, warranting using the same (or similar) title, qualification requirements, examination, and pay grade. Sometimes called "Classification".

CLASSIFICATION PLAN

An ordering of different positions in the City service according to duties, responsibilities, and required qualifications.

CONTINUOUS EMPLOYMENT

The period during which the City employs a person in a regular status uninterrupted by termination or suspension.

CORRECTIVE ACTION

An action taken to correct the behavior or the performance of an employee.

DEMOTION

The assignment of an employee from one class to another which has a lower pay rate or grade and is corrective in nature.

DEPARTMENT DIRECTOR

A City official designated with the responsibility for management of a major department of the City government. Departments are comprised of several divisions with similar service missions.

DISABLED EMPLOYEES

Individuals who have suffered a permanent disability while an employee of the City government.

DISMISSAL

Involuntary termination of employment for reasons other than lack of funds or lack of work.

EAP

Employee Assistance Program (EAP) is a benefit to aid employees in resolving personal problems.

ELIGIBLE

A person has the right to do or obtain; satisfying the appropriate conditions or whose name is included with a list of qualified candidates for a vacant position.

ELIGIBLE LIST

A list of persons qualified to fill a vacancy in a particular class.

EMPLOYEE

An individual who is legally employed by the City government and is paid through the City payroll, except for contracted persons, and consultants.

ENTRY LEVEL RATE

The minimum base rate in any salary grade established for a class.

FINAL RATING

A job candidate's earned composite score or consensus rating for all aspects of the selection process.

FRATERNIZATION

To associate with others in a brotherly or congenial way.

FULL-TIME

A position that requires at least forty (40) hours work per work week.

GRIEVANCE

An employee's complaint regarding alleged unjust application, interpretation, or violation of the rules and regulations of the City, or the department for whom the employee works.

GRADES

An ordering of positions within a pay plan.

JOB DESCRIPTION

A written description of a class, which includes the position title, a general statement of duties and responsibilities, examples of typical duties performed, a statement of minimum qualification requirements, and definition of working conditions.

JOB EVALUATION

A review of the duties and responsibilities of a position and the qualifications required to perform the essential functions of the position.

LAYOFF

Involuntary termination of an employee due to lack of work, lack of funds, elimination of a position through reorganization, reclassification of positions, or other changes that have taken place.

LWOP

Leave without pay is a temporary status and absence from duty that, in most cases, is granted at the employee's request. Approval of LWOP is a matter of supervisory discretion.

MANAGEMENT

Persons designated as head of a group of employees, a section, a major functional unit, or an activity, with authority and responsibility to exercise independent judgement; who assigns tasks, sets standards of job performance, recommends hires, transfers, suspensions, layoffs, recalls, promotions, and terminations of subordinates. Further, they may assign, reward or correct the action of others, and direct or adjust employee grievances.

MEDICAL EVALUATION

An objective assessment of the candidate as compared with medical standards.

MEDICAL STANDARDS

Medical requirements established by the City for all classes of positions. Inability to meet one or more medical

standard(s) established for a position will result in rejection of the candidate or withdrawal of a conditional offer of employment.

NEPOTISM

Favoritism shown on the basis of family relationship by those with power or influence.

NEW HIRE

A person not previously employed by the City.

OPEN COMPETITION

Competition for a position which is available to all interested persons internally and externally.

OVERTIME WORK

Time worked for an hourly employee in excess of forty (40) hours per work week.

PAID TIME OFF (PTO)

Leave with pay granted after accrual to eligible employees for their own personal use.

PAY

Payment that is uniform from one payday to the next and does not depend on the number of hours worked.

PAY DIFFERENTIALS

Also called "overlays." Pay for additional duties beyond what the position originally required.

PAY PLANS

The salary schedules for salaried/exempt and hourly/non-exempt employees or any other class(es) of positions in the municipal service.

PAY RANGE

The minimum and maximum base rates established for each pay grade.

PAY RATE

Also called base rate. The specific salary established within each salary grade.

PER DIEM ALLOWANCE

Daily allowable compensation for lodging and subsistence for in-state and out-of-state travel at the current reimbursement rate.

POSITION

An authorized, budgeted job within the municipal service. A position may be vacant or occupied by an incumbent.

POSTING

The advertising of vacant positions.

PREFERENCE

The additional consideration that is given to a regular employee applying for an established vacancy who meets the minimum qualifications of a classification.

PROBATIONARY PERIOD

A six (6) month or one year (12 month) trial period of employment, during which an employee is required to demonstrate fitness for regular employment and during which time the employee may be terminated without cause and without the right of appeal.

PROMOTION

The assignment of an employee from one grade to another, which has a higher maximum rate of pay and greater responsibility. Promotion requires that an employee undergo another probationary period.

RECLASSIFICATION

A change in duties, responsibilities, qualifications, title, and/or grade of a position as a result of a job evaluation.

REGULAR FULL-TIME EMPLOYEE

A Regular Full-Time employee is one whose average workweek is no less than forty (40) hours in a seven (7) day period, has successfully completed the introductory period, and is entitled to employee benefits.

REGULAR PART-TIME EMPLOYEE

A City employee who works less than forty (40) hours/week, and not more than 29 hours/week, in a regularly budgeted position, and has successfully completed the probationary period.

RE-HIRE

Re-employment of a former employee, restored to the municipal service in good standing.

REINSTATEMENT

An action whereby an employee is restored to the municipal service after involuntary termination or suspension.

RESIGNATION

The voluntary termination of employment, prior to retirement, by an employee.

RETIREMENT

Any employee retiring in good standing under City employment and under the New Mexico PERA Retirement system.

REVIEWER

The rater's immediate superior or designee who is required to review and approve each performance evaluation within his or her purview before it is included as part of the reviewed employee's permanent record.

SEASONAL/TEMPORARY

Full or part-time employees working not more than six (6) months per calendar year, for a special purpose, project or definite number of projects during a peak season. These employees are not eligible for benefits and may be terminated at any time with or without cause and without the right to appeal.

SELECTION TOOL

Tools used separately or in combination, as appropriate, to obtain the best qualified applicants for vacant positions. Such devices may include, but are not limited to, work sample and performance tests, practical written tests, oral examinations, rating of training and experience, interview, skills tests, and others.

SEPARATION

Removal of an employee from the municipal payroll for voluntary or involuntary reasons; to include dismissal, resignation, layoff, retirement, abandonment of the job, death, etc.

SERIOUS ILLNESS

An illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature for which meets the definition of a serious illness in the Family and Medical Leave Act.

SUPERVISOR

An employee with authority to exercise independent judgement on behalf of the City government to recommend hire, transfer, suspension, layoff, recall, promotion, demotion, discharge, and other personnel actions.

TERMINATION

The resignation, retirement, dismissal, or death of an employee.

TEST

A formal method by which an applicant's or employee's qualifications for employment or promotion are assessed.

TRANSFER

Assignment of an employee from one position to another in the same pay grade, a lower pay grade, or a pay grade with the same or a lower minimum rate of pay. May also be assignment of an employee from one work site to another, from one Department to another, to more or less responsible or skilled occupations, or from one operational assignment to another in accordance with existing City policy. Transfers may be voluntary or involuntary. An involuntary transfer, which results in a reduction of base pay is considered a demotion.

UNAUTHORIZED ABSENCE

Absence from duty without supervisory approval.

VACANCY

An authorized position not occupied by an incumbent, which has been approved by the appropriate designated authority for filling.

WAGE

Payment that is calculated according to the number of hours worked and which may fluctuate from one payday to the next as the number of hours worked varies.

1-3. Objective

It is the objective of the City of Alamogordo to provide the maximum possible service to the public within available funding and to provide courteous treatment to all persons having any dealings whatsoever with the City, under all circumstances. This manual is intended to be one of the means whereby the City will accomplish this objective.

1-4. Authority

The following practices and procedures were developed under the authority of the City Commission and shall supersede any Ordinances or rules relating in any way to personnel heretofore adopted, except for those rules adopted as the result of any collective bargaining agreement adopted pursuant to the City's collective bargaining ordinance.

1-5. Purpose

It is the purpose of this manual to establish a system of uniform and appropriate personnel procedures to improve the quality of personnel administration. It is not the purpose of this manual to create an express or implied contract of employment in any way. This manual will consist of good employment practices such as:

1. Recruiting, selecting and advancing employees on the basis of their knowledge, skill, and ability, as well as open consideration of qualified applicants for initial appointment.
2. Retaining employees on the basis of performance, correcting inadequate performance, and separating employees whose performance cannot be corrected.
3. Assuring fair treatment of applicants and employees in selection, promotion, training, and all other aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, age, religion, handicap, or any other protected status and with proper regard for their privacy and constitutional rights as citizens.
4. Assuring that employees are not coerced to support or oppose particular candidates or electoral issues and are prohibited from using their official authority for personal gain for the purpose of interfering with or affecting the outcome of an election.
5. To assist managers in the development of sound management practices and procedures, and to make effective, consistent use of Human Resources throughout the City.

1-6. Scope

The scope of this manual includes a compilation of procedures, which governs and affects personnel administration for all departments within the jurisdiction of the Alamogordo City Government, unless otherwise specified.

1-7. Amendments

The City Manager shall recommend changes to this manual to the City Commission as needs become apparent. Such changes shall become effective when the ordinance adopting such amendments becomes effective.

The City specifically reserves the right to repeal, modify or amend these policies at any time, with or without notice.

1-8. Administration of the Personnel System and Manual

The City Manager shall administer all aspects of the personnel administration in accordance with these rules in compliance with City Ordinance, and the laws of the State of New Mexico and the United States of America.

Henceforth the City Manager may, with sole discretion, appoint a designee to fulfill any or all responsibilities of administration of this manual as deemed appropriate, except those specifically reserved to the City Manager by statute.

The City Manager shall:

1. Develop, maintain, and apply these procedures for the recruitment, compensation, promotion, training, discipline, and related aspects of personnel management for all personnel under the City's jurisdiction;
2. Maintain the classification and pay plans of the City;
3. Recommend to the City Commission such new or revised personnel rules as are deemed necessary and desirable;
4. Issue supplemental regulations and directives necessary for the effective implementation of these rules, which shall not invalidate the effect of these rules;
5. Approve contractual arrangements with any qualified person or agency for the performance of technical and professional services required in the establishment and operation of the personnel program;
6. Delegate to Department Directors the responsibilities and authorities described herein and such others as are deemed necessary for successful administration of the personnel program; and
7. Maintain or cause to be maintained an adequate employment record of each employee, including a record of official acts under these policies.

1-9. Authority to Develop Departmental Rules and Regulations

Supplemental personnel rules and regulations, not in conflict with this manual, may be drafted by Department Directors to meet specific needs of their areas of responsibility. Such supplemental regulations must be authorized by the City Manager prior to implementation. Such approved regulations must be distributed to the affected employees and an acknowledgement of receipt for each employee must be obtained by the supervisor. Approved department regulations shall have the same force and effect as those promulgated by this manual, provided however, that should there be a conflict between departmental regulations and this manual, this manual will govern.

1-10. Application of Provisions

The provisions of this Employee Manual shall apply to all persons employed by the City, except as follows:

1. At Will employees are subject to the grievance procedure(s) outlined in their respective contract(s).
2. Members of City boards and committees appointed by the Mayor, City Commission, or City Manager.
3. Contract labor personnel.
4. Employees represented by a collective bargaining unit are covered by any provision of this Employee Manual not modified by their collective bargaining agreement.

1-11. Compliance with Federal/State Employment Laws and City Ordinances

The City of Alamogordo promotes and will use its best efforts to comply with all federal and state employment laws as they apply to municipal government, as well as the Ordinances of the City of Alamogordo.

1-12. Equal Employment Opportunity

City of Alamogordo is an Equal Opportunity Employer that does not discriminate on the basis of actual or perceived race, creed, color, religion, alienage or national origin, ancestry, citizenship status, age, disability or handicap, sex, marital status, veteran status, sexual orientation, genetic information, or any other characteristic protected by applicable federal, state or local laws. Our management team is dedicated to this policy with respect to recruitment, hiring, placement, promotion, transfer, training, compensation, benefits, employee activities and general treatment during employment.

The City will endeavor to make a reasonable accommodation to the known physical or mental limitations of qualified employees with disabilities unless the accommodation would impose an undue hardship on the operation of our business. If you need assistance to perform your job duties because of a physical or mental condition, please notify the Human Resources Office and your immediate supervisor.

The City will endeavor to accommodate the religious beliefs of its employees to the extent such accommodation does not pose an undue hardship on the City's operations. If you wish to request such an accommodation, please speak to your immediate supervisor and the Human Resources Office.

Any employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the attention of the Human Resources Office. The City will not allow any form of retaliation against individuals who raise issues of equal employment opportunity. If an employee feels he or she has been subjected to any such retaliation, he or she should bring it to the attention of the Human Resources Office. Violation of this policy including any improper retaliatory conduct will lead to discipline, up to and including termination.

1-13. Harassment

It is City of Alamogordo's policy to prohibit intentional and unintentional harassment of any individual by another person on the basis of any protected classification including, but not limited to, race, color, national origin, disability, religion, marital status, veteran status, sexual orientation or age. The purpose of this policy is to ensure that no one harasses another individual.

If an employee feels that he or she has been subjected to conduct which violates this policy, he or she should immediately report the matter to the employee's supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office. Every report of perceived harassment will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

In addition, the City will not allow any form of retaliation against individuals who report unwelcome conduct to management or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels he or she has been subjected to any such retaliation, he or she should report it in the same manner in which the employee would report a claim of perceived harassment under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

1-14. Sexual Harassment

It is City of Alamogordo's policy to prohibit harassment of any employee by any supervisor, employee, citizen or vendor on the basis of sex or gender. The purpose of this policy is to ensure that all City employees are free from sexual harassment. While it is not easy to define precisely what types of conduct could constitute sexual harassment, examples of prohibited behavior include unwelcome sexual advances, requests for sexual favors, obscene gestures, displaying sexually graphic magazines, calendars or posters, sending sexually explicit e-mails, text messages and other verbal or physical conduct of a sexual nature, such as uninvited touching of a sexual nature or sexually related comments. Depending upon the circumstances, improper conduct also can include sexual joking, vulgar or offensive conversation or jokes, commenting about an employee's physical appearance, conversation about your own or someone else's sex life, or teasing or other conduct directed toward a person because of his or her gender which is sufficiently severe or pervasive to create an unprofessional and hostile working environment.

If the employee feels that he or she has been subjected to conduct which violates this policy, the employee should immediately report the matter to the employee's supervisor. If unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of perceived harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office. Every report of perceived harassment will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

In addition, the City will not allow any form of retaliation against individuals who report unwelcome conduct to management or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels that he or she has been subjected to any such retaliation, the employee should report it in the same manner in which a claim of perceived harassment would be reported under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

1-15. Workplace Violence

City of Alamogordo is strongly committed to providing a safe workplace. The purpose of this policy is to minimize the risk of personal injury to employees and damage to City and personal property.

City of Alamogordo prohibits employees from engaging in any physical confrontation with a violent or potentially violent individual. However, we do expect and encourage employees to exercise reasonable judgment in identifying potentially dangerous situations.

Prohibited Conduct

Threats, threatening language or any other acts of aggression or violence made toward or by any City employee will not be tolerated. For purposes of this policy, a threat includes any verbal or physical harassment or abuse, any attempt at intimidating or instilling fear in others, menacing gestures, flashing of weapons, stalking or any other hostile, aggressive, injurious or destructive action undertaken for the purpose of domination or intimidation.

Procedures for Reporting a Threat

All potentially dangerous situations, including threats by co-workers, should be reported immediately to any member of management with whom the employee feels comfortable. Emergency 911 should be contacted if needed. Reports of threats may be maintained as confidential to the extent maintaining confidentiality does not impede the ability to investigate and respond to the complaints. All threats will be promptly investigated. No employee will be subjected to retaliation, intimidation or disciplinary action as a result of reporting a threat in good faith under this policy.

If the City determines, after an appropriate good faith investigation, that someone has violated this policy, the City will take appropriate disciplinary action up to and including termination.

If an employee is the recipient of a threat made by an outside party, that employee should follow the steps detailed in this section. It is important for the City to be aware of any potential danger, and to take effective measures to protect everyone from the threat of a violent act by an employee or by anyone else.

1-16. Anti-Bullying

City of Alamogordo prohibits any form of bullying. Bullying is an act of aggression causing embarrassment, pain, or discomfort to someone. It can take a number of forms including, but not limited to physical, verbal, making gestures, or exclusion. It may be an abuse of power. It can be planned and organized, or it may be unintentional. It may be perpetrated by individuals or by groups of individuals.

The City is opposed to bullying and it will not be tolerated. If an employee feels that he or she has been subject to conduct in the workplace which violates this policy, he or she should immediately report the matter

to the employee's supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be bullying, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office.

1-17. Alternative Dispute Resolution

The City encourages the resolution of legal claims, including employment claims, through alternative dispute resolution ("ADR"), and intends to use ADR in disputes. Included below is a preliminary step which encourages, whenever possible, the use of mediation to resolve conflict. This step is intended to urge the consideration of the option of mediation, but in no way limits or preempts other remedies to which employees and the City are entitled by law.

When possible, the Department Head considering corrective action may file a request for mediation with the Human Resource office prior to initiating corrective action. When mediation is pursued, participation in such session will be limited to the two (2) parties involved, the City Attorney's Office, and the mediator. Other parties may be included, exclusive of any representative or attorney, at the discretion of the mediator. Further, when mediation is pursued, all time limitations will be tolled as of the filing of the request for mediation with the Human Resource's Office and until such time as the mediation is completed. If a resolution is not reached through mediation, disciplinary action may ensue. A Department Head considering termination may not use mediation.

Section 2 - Recruitment and Selection

2-1. Recruitment Policy

Policy

It is the policy of the City to recruit and select the most qualified persons for positions in the City's service. Recruitment and selection shall be conducted in a manner that will ensure the City's best interest, open competition, provide equal employment opportunity, prohibit discrimination or favoritism as per federal and state laws and local ordinances.

Recruitment

The Human Resources Department policy is to conduct an active recruitment program designed to meet current and projected manpower needs. Recruitment will be tailored to the various classes of positions to be filled and will be directed to available sources likely to yield qualified applicants, including, but not limited to: internal posting, public notification through the New Mexico Department of Labor, media, web advertising, and posting at institutes of higher learning.

Posting of Vacancies

The Human Resources Department policy is to post and advertise job announcements in order to attract an adequate number of applicants and to promote an environment of competition that in turn will assure the selection of the most qualified candidates for any given position. These announcements shall include information sufficient to inform applicants of the pertinent features of the job.

The Human Resources Office will in its best efforts create a pool of qualified applicants to encourage diversity and ensure Equal Employment Opportunity in hiring. The following practices for listing positions will be followed under the Human Resources Department's direction with regard to Equal Employment Opportunity in the City of Alamogordo:

- A. Regular full-time positions must be open for a minimum of five (5) work days; and
- B. Must be advertised in the City's paper of record and/or on the City's official web site, except when the City determines that a given position is to be filled from within the City organization or through an employment agency such as the New Mexico Department of Labor, it will not be required to advertise in said paper of record.

Application Forms

All applications for employment shall be submitted to the Human Resources Department on the standard City application form either electronically or in hard copy. Such application forms shall require background information to include training, experience, and other pertinent information that is not prohibited by law. All applications must be signed, either electronically or in writing, and proof of qualification may be required. An application for employment will not be accepted beyond the closing date of a job vacancy announcement. Resumes without an application, and incomplete or late applications will not be accepted. Electronic and faxed applications will be accepted under the same procedure. All applications and resumes shall become the property of the City and shall become a permanent part of the personnel file upon being hired.

Applicant Qualifications

Qualifications are the primary consideration in filling any position. Experience, education, training, skills, and other abilities, as well as specific position requirements and the prior employment history of the applicant, are considered in appraising individual qualifications. Qualifications are subject to change within job fields and according to job descriptions prior to posting.

Notwithstanding the foregoing, no person shall be eligible to have his or her name certified for original appointment to the position of Police Officer if such person has not reached his or her twenty-first birthday on the date of the application for the position, or the position of Firefighter if such person has not reached his or her eighteenth birthday on the date of application for the position.

Rejection of Applications

The Human Resources Department may reject any application, which indicates that the applicant does not meet the minimum qualifications as established. Applications may also be rejected for, but not limited to the following, and consistent with the American with Disabilities Act, when the applicant:

- A. has falsified an application or resume;
- B. is unable to perform the duties of the position, for whatever reason(s);
- C. does not pass the pre-employment tests as outlined in this manual;
- D. refuses to submit, or does not submit in a timely manner, documents required by the established position or by law to determine the applicant's suitability for employment in the United States of America under the Immigration Reform Act, Social Security Act, or documents required to determine established education for the position;
- E. has an unsatisfactory employment record or personal record as evidenced by information contained on the application form or by results of a background check;
- F. is not within the legal age prescribed by law or City Ordinance;
- G. fails to meet any standards applicable to the physical or mental demands of the position;
- H. fails a pre-employment drug test;
- I. cannot be licensed or insured for the operation of City vehicles and equipment as required by the job description;
- J. cannot be licensed for or maintain professional certification as required by the job description;
- K. was dismissed from City service as a result of the corrective action process, or did not give a two week notice before termination. Two week notice may be waived, with documented approval, from the Department Director and Human Resource Director to accommodate extenuating circumstances; or
- L. where an employee resigns to avoid dismissal or other corrective action.

Selection Hiring Process

The Human Resources Department shall be responsible for determining selection methods to obtain the best-qualified applicants for each class of positions. Such selection methods may include the interview process, job relevant testing, and examinations. In the development of selection methods, Human Resource Department shall confer with department heads, consultants, or others skilled in/or familiar with minimum job

requirements. The minimum passing score is 70% or greater for interviews, testing, and examinations.

Human Resources will be responsible for developing and maintaining a background check program that is appropriate depending on the nature of each position. Applicants must provide a written authorization to the City which notifies the applicant that the City will conduct a background check and that the applicant agrees.

Interview Process

The Human Resources Department shall coordinate the interview process. As a supplement to the selection process, applicants who have passed the application process may be interviewed by a panel of three (3) or more panelists. In processes where only three (3) or fewer applicants pass the application process, the Department Director may choose to interview the applicants in lieu of using a panel. The City Manager has the authority to approve, by request of the Director, elimination of the panel interview.

All interviews will strictly adhere to Equal Opportunity Laws and the Americans with Disabilities Act.

Interview Panels

The Human Resources Department and Department Directors will coordinate the selection of panel members, scheduling of applicants, development of questions, and rating process.

Rating and Recommendation Process

All applicants will be rated individually on the information provided by the applicant during the interview. The Human Resources Department will tabulate all scores and provide a listing to the Department Director of the three (3) top scoring applicants in alphabetical order or will provide the top scoring applicant. Filling the position from the top three (3) scoring applicants or from the top scoring applicant will be determined by the Department Director at the time a request is submitted to fill a vacancy. Where there is a tie score among the third of the top three (3) applicants, all four (4) top ranking applicants will be listed in alphabetical order. The Department Director will advise the Human Resources Department of his or her recommended selection. If the Department Director finds that none of the applicants are suitable, the remaining applicants will then be reconsidered or, if necessary the position will be re-advertised.

Eligibility for Hire Roster

Applicants who pass the initial interview phase will be placed on an eligibility roster for a period of six (6) months from the date of the initial interviews. Police, Fire and Dispatcher rosters will be for a period of twelve (12) months, from the date of the initial interviews. Placement on the eligibility roster will be in order beginning with the highest scoring applicant to lowest scoring applicant. Should the position become vacant within the relevant time period, the top applicants on the roster who passed the initial interview phase may be considered by the Department Director before re-advertising the position.

Notice of Non-Selection

The Human Resource Department and/or in some cases, the Department Director or designee, will notify applicants of their status during the process when it is determined the applicant is no longer being considered.

2-2. Procedures For Hiring

Authorization for Hiring

Department Directors shall submit each request to fill a vacancy, to the Human Resources Department on the prescribed form. The Human Resources Department shall verify each request and present it to the City Manager or his or her designee. The City Manager may or may not authorize the vacancy be filled.

Required Licenses and Certificates

Applicants/employees are responsible for meeting all job-related requirements at the time of application, hire, transfer or promotion as outlined in the job description. This may include licenses, certificates, permits, degrees and registrations.

Employees are responsible for paying any fees in obtaining such license, etc., unless otherwise specified by the City Manager, Department Director, or designee.

Failure to Maintain Job Qualifications

Employees are required to maintain qualifications and certifications necessary for their position. Employees who have lost such certification requirement/job qualifications are responsible for:

- A. Immediately notifying both their immediate supervisor and their Department Director on the first day of employment after such a loss; and
- B. Not performing any work, or related function, without the required certification.

Pre-Employment Screening

Pre-Employment testing may include, dependent on the position, but are not limited to a functional capacity examination, position competency test, and/or physical testing.

Background Checks

The Human Resources Department will obtain signed releases and authorizations to conduct background and reference checks. Background checks may include, dependent on the position, but are not limited to employment history, criminal history, driving history, education verification, and credit history as appropriate.

Supervisors may review previous performance reviews and disciplinary actions of current employee's being considered for a new position, and may consider this information when selecting a successful candidate.

Post Offer, Pre-Employment Examinations

Pre-employment examinations may include, dependent on the position, but are not limited, to a pre-employment drug test, a physical, a polygraph, hearing test, eye test, and/or a psychological examination.

Recommendation for Hire and Appointment

The City Manager, or his or her designee, has the authority to approve or disapprove a recommended selection. Upon the City Manager's written approval, and upon completion of all pre-employment procedures, the Human Resources Department will notify the finalist of a conditional offer of employment.

Conditional Offer of Employment

The Human Resources Department shall notify the successful applicant of the conditional offer of employment and will schedule them to attend orientation. Unless prior approval is obtained from the City Manager, the City will not reimburse travel or relocation expenses in conjunction with the hiring process.

Rejection of Employment Offer

In the event an applicant rejects an offer, the position may be offered to another candidate from the top three (3), the next highly qualified applicant from the same selection pool, or it may be re-opened for recruitment. A Director may choose not to hire candidates that remain eligible in the recruitment file.

New Employee Orientation

Each new employee is required to attend a New Employee Orientation coordinated by the Human Resources Department.

The employee's department is responsible for providing additional information on departmental rules and regulations that set forth standards, regulation, duties, training, hours of work, reports, leave requests, safety, dress code, etc.

Categories of Employment

A. Probationary: All newly hired employees for the City are on a probationary status that extends for six (6) months from the date of hire or twelve (12) months for Police and Fire Personnel under special circumstances and with the approval of the City Manager.

Probationary periods may be extended for an additional period of up to six (6) months. Extended probationary periods must be initiated and served prior to the end date of the initial probationary period. Such an extension will be effective the day following the end of the initial probationary period.

B. Regular Full Time: A Regular Full-Time employee is one whose average workweek is no less than forty (40) hours in a seven (7) day period, has successfully completed the probationary period, and is entitled to employee benefits; or meets the requirements of the Affordable Care Act.

C. Regular Part Time: A City employee who works less than forty (40) hours in a seven (7) day period, is in a regularly budgeted position, has successfully completed the probationary period, and is entitled to qualifying employee benefits.

D. Temporary/Seasonal: Full or part-time employees whose work assignment is budgeted not to exceed six (6) months in a calendar year for a special purpose, project or definite number of projects during a peak season. These employees are not eligible for benefits. Such employees are probationary their entire tenure, regardless of the number of seasons for which they have been rehired, and may be terminated at any time with or without cause and may not appeal this termination.

E. Intermittent: An employee qualified to work in one or more job assignments who is on call to work at irregular intervals in one or more City departments. This employee is not entitled to City benefits and is paid only for hours worked.

F. Emergency: A full-time or part-time person hired to ensure continuity of municipal services during an emergency. Emergency appointments need only approval by the City Manager. Such employees are not eligible for City benefits.

G. Acting: A current employee appointed to temporarily assume the duties of a position pending the return of

the employee in that position or a regular competitive appointment. A current employee who assumes the acting appointment may be required to also perform his/her usual duties. An Acting Employee will be granted additional compensation after thirty (30) calendar days or upon City Manager approval where required.

H. Professional: A person from outside the work force who is appointed on a temporary basis by the City Manager, to a vacant position pending selection of a qualified person.

I. Special Programs: These are employees who are assigned to work areas anywhere in the City for the purpose of training or re-training. These individuals are not City employees, and all benefits and insurance coverage are the responsibility of the agency that has placed said individuals with the City. The City is not responsible for extending regular employment of these individuals.

Employee Preference

Current full-time and part-time, regular non-probationary period employees who apply for and are qualified for a vacancy that are selected for the interview process, will be given a ten (10%) percent preference, which will be added to their interview score before being referred for the final interview with the Department Director. The 10% preference will only be added to each score after passing the minimum passing score. The minimum passing score is 70% or greater. This preference does not guarantee selection or appointment to any vacancy. Where two (2) or more City employees are the only applicants being considered for final selection, seniority with the City, past performance, evaluations, and attendance (barring the courtesy of emergency/medical leave) may be considered in the final selection.

Employee Identification Cards

The Human Resource Department will issue all employees a City Employee Identification Card (I.D. Card). The employee will carry the I.D. card when on Official City business. Each employee is responsible for safeguarding and updating his or her issued I.D. card. All identification cards remain the property of the City and must be returned to the Human Resource Department upon termination of employment. Failure to return the I.D. card may result in a charge being withheld from the final pay in accordance with the City Property policy.

City retirees will be provided with an I.D. card, from the Human Resources Department for required identification when requesting recreational City benefits. A City retiree is defined as an employee retiring in good standing under City Employment and under the New Mexico PERA retirement system. City retiree I.D. Cards are not required to be returned to the City.

2-3. Transfers/Promotions/Demotions

City employees are encouraged and offered the opportunity to apply for a transfer or promotion to vacant positions for which they are qualified. In order to promote, the City will allow on-duty employees to attend testing and interview procedures for other City positions, during scheduled work hours, under the following conditions:

- Appropriate notice is given to the supervisor of the absence from work; and
- Employee will report to work immediately following appointment if during scheduled work hours.

Employees will not be compensated for time to attend testing and/or interviews that are conducted outside of their normally scheduled work hours.

The City Manager, or designee, may, for the good of the City, transfer an employee to a vacant position within a department or division or to a different department or division within the City. Employees cannot be laterally transferred outside their PERA Retirement classification where the transfer is detrimental to the employee's vested interest, unless employee initiated.

Pay Upon Transfers/Promotions/Demotions

Employees who are transferred may have their pay changed accordingly.

No transfers will be made outside the pay range for the new position.

Change of Anniversary Date & Introductory Period

A regular employee who is promoted, demoted, or transferred will have his/her anniversary date changed to the effective date of said personnel action for evaluation and seniority in grade purposes. They will also serve a probationary period as outlined in that section. This provision does not apply in the case of an involuntary transfer.

Employees transferring may have their pay changed accordingly.

Section 3 - Compensation

3-1. Compensation

The term "Compensation" refers to base salary and other forms of compensation to include, but not limited to, fringe benefits such as paid leaves, insurance, retirement pensions, incentive plans, and paid holidays. The Compensation Plan shall strive for fair market compensation in terms of service provided to the community for resources expended.

Purpose and Policy

It is the policy of the City to establish a compensation system that will allow the City, within budgetary constraints, to effectively compete for qualified personnel and to ensure that salaries are equitable and commensurate with the duties performed by each employee.

Salary Plan

A salary plan shall be prepared and reviewed by the City Manager, and approved in the budget by the City Commission, and shall apply to all employees not covered by a labor contract. Employees covered by a labor contract shall be compensated as referenced in their respective agreements. A copy of the current salary plan shall be on file in the Human Resource Office.

Maintenance of the Salary Plan

The Human Resource Department shall be responsible for the maintenance and administration of the City's Salary Plan. Any recommended changes shall be presented to the Department Director and the City Manager for approval.

Standards for Development of the Salary and Compensation Plan

The Compensation Pay Plan is directly tied to the Classification Plan and is determined on the basis of:

1. Uniformity of pay for each class.
2. Relative difficulty and responsibility of positions.
3. Prevailing wages within the identified relevant public and private sector markets.
4. Cost of living index.
5. Financial policies of the municipality.
6. Difficulty in recruiting suitable employees.
7. Other economic considerations.

Classification Plan

Positions that require similar qualifications and similar duties and responsibilities are assigned to the same salary level. The City may conduct periodic studies to determine if an employee is working above or below the responsibility level for that position. Where unusual conditions exist that affect the market value of a position, the salary may be adjusted accordingly by the City Manager.

Classification and Re-Classification of Positions. An internal and external analysis will be conducted by Human Resources for any new position or existing position that has experienced significant changes in duties or qualification requirements. Human Resources will provide a recommendation to the Department Director and City Manager for approval.

Compensation System

Entry Level Pay Rates

The entry level rate is the minimum rate in the pay grade for the position. A Department Director, subject to approval by the City Manager, may recommend for appointment, a candidate above the entry level rate, to the midpoint of the pay grade if:

1. There are a limited number of qualified applicants available at the entry level, or
2. The applicant has exceptional qualifications.

Above the mid-point if:

1. Multiple recruitments have failed to yield a qualified candidate, or
2. The applicant has qualifications which are unique or critical, or
3. A survey of the market reveals that the City is not competitive.

Pay Rate Adjustments

Pay rate adjustments shall be administered as follows:

Seasonal employees promoting from seasonal to regular status shall start at the entry rate of the new position;

Entry level pay rate section may be applied when deemed appropriate by the City Manager.

1. **Transfers.** When an employee is transferred (reassigned) from one position to another within the same pay grade he or she shall continue to receive the same base rate of pay. Employees moving from a non-exempt position to an exempt position will receive:

A. Five (5) percent increase if moving from a non-exempt to an exempt position.

2. **Promotions.** A promotion is defined as an assignment from one grade to another, which has a higher maximum rate of pay and greater responsibility. The employee will receive the higher of:

A. Ten (10) percent when the new position is at least one salary grade higher, or

B. Fifteen (15) percent when the new position is at least two (2) or more salary grades higher, or

C. Fifteen (15) percent if moving from a non-exempt to a higher exempt position, or

D. Five (5) percent above the minimum of the new pay grade, provided the employee has successfully completed their initial probationary period.

The new pay rate, upon promotion, shall not exceed the maximum of the new pay range.

3. **Reclassification.** Reclassification is the reassignment of a position from one class to a different class to recognize a significant change in the duties and responsibilities of the position. For an upward reclassification the percentage increase will be the higher of:

- A. Ten (10) percent when the new position is at least one salary grade higher, or
 - B. Fifteen (15) percent when the new position is at least two (2) or more salary grades higher, or
 - C. Fifteen (15) percent if moving from a non-exempt to a higher exempt position, or
 - D. Five (5) percent above the minimum of the new pay grade, provided the employee has successfully completed their initial probationary period.
 - E. For a downward reclassification the affected employee shall remain at their current base salary rate. However, the employee will not be eligible for any salary increase, other than an across the board increase, until their current base salary is within the range of the new pay grade.
- 4. Demotion.** The placement of an employee from one class to another which has a lower pay rate or grade, resulting in a decrease in pay. In the case of a demotion, the employee's base salary shall be adjusted at the lower of:
- A. Ten (10) percent when the new position is at least one salary grade lower, or
 - B. Fifteen (15) percent when the new position is two (2) or more salary grades lower, or
 - C. Fifteen (15) percent if moving from an exempt to a lower non-exempt position, or
 - D. The maximum base salary of the new pay grade.
 - E. An employees pay when an in-voluntary movement to a lower pay grade occurs will be evaluated based on the extenuating circumstances surrounding the reason for the pay grade change.
 - F. An employee transferring or demoting back to their previous position will receive their final salary in that previous position, plus any across the board increases applied since the employee moved from that position.

Additional Compensation

The City Manager may recommend additional forms of compensation in addition to the Salary Plan in the best interest of the City and within the amounts approved in the budget by the City Commission. The manner in which the award of additional compensation is to be determined will be outlined in writing by the City Manager and maintained in the Human Resource Department.

Cost of Living

Cost-of-living adjustments/salary modifications may be granted by the City Manager when authorized by the City Commission. If granted, they are effective the first day of the first pay-period that is subsequently paid in the new fiscal year.

Pay Increases

Pay increase requests for non-represented employees shall generally be required during the budget process for the following budget year. Merit based and other increases are limited to the approved departmental budget, and are subject to the availability of funds. Other pay increases occurring during the fiscal year will be effective the first full pay period following approval. Employees covered by a labor contract shall be compensated as referenced in their respective agreements.

Overtime/Compensatory Time

Overtime and Compensatory time will be paid in accordance with the Fair Labor Standards Act. A maximum limit of compensatory time may be set by the City Manager, not to exceed the rate set by local, state, or federal

law. Exempt employees are not eligible for overtime pay, and will be paid in accordance with the Fair Labor Standards Act.

Responsibilities and Authority to Approve Overtime/Compensatory Time

Employees may not work beyond their scheduled hours without prior approval from their Department Director or their designee. This written approval will be on an exception report form or other standard City forms within the work week. Department Directors are responsible for the accurate recording of all overtime and compensatory time on the employee's exception report. Accrued compensation time shall be utilized prior to accrued PTO, unless otherwise approved by the Department Director. Overtime and compensatory time will be administered in accordance with local, state, and federal laws.

When allowed by law, Department Directors may utilize compensatory time off in order to conserve their budgeted overtime for emergencies. Compensatory time accrued must be taken by the last day of the next to the last pay period of the fiscal year, unless otherwise approved by the City Manager, or the employee will be paid out for the compensatory time he/she has accrued. Employees will be paid for all compensatory time they have earned and not used at the time of termination or fiscal year end.

Premium Pay

Time worked on specific projects, emergencies, or grant funded projects may be paid at a premium rate of time and a half the regular rate at the discretion of the City Manager prior to overtime pay being required by law.

Compensation for Temporary Acting Assignment

When an employee is assigned to fulfill the duties and responsibilities in a higher classification or duties given as a special assignment, on a temporary basis, he or she shall be paid additional compensation either at a rate equal to the starting salary of the higher classification or given a ten percent (10%) increase, whichever is greater. The preceding provision shall not apply to those circumstances where a person is temporarily assigned to fulfill the duties and responsibilities of a Department Director. Instead, the employee shall be paid additional compensation either at a rate equal to the starting salary of the directors position or given a fifteen percent (15%) increase, whichever is greater. This section shall not apply to the position of acting, temporary, or interim City Manager. Internal equity may be considered. The compensation paid to any individual serving in such a capacity shall be fixed by the City Commission.

When an employee is temporarily assigned a project or task outside of the scope of their current position, and is not fulfilling the capacity of a vacant position, the employee will receive overlay pay at a rate to be determined by the City Manager. This provision does not apply to assigned tasks that qualify as "other duties as assigned".

For the purpose of this section, temporary is defined as a period of time in excess of thirty (30) calendar days.

When the temporary acting assignment is complete, the employee's salary shall revert to the previous level.

If an employee separates from employment, either voluntarily or involuntarily, or as the result of a retirement, while temporarily assigned to a higher classification or as a Department Director, any accrual payouts made in conjunction with the separation, retirement, or PTO Conversion shall be calculated and paid without the additional rate of the temporary or acting pay or salary.

Holiday Pay

When a non-exempt employee works on the actual holiday, the employee shall be compensated at a holiday pay rate for all hours worked on the actual holiday. All time worked on **actual** holidays will be paid at one and

one half (1 ½) times the normal hourly rate, in addition to the holiday leave pay if applicable. For example, if Christmas Day is Sunday and the City observes the holiday on Monday, the employee who is scheduled to work on Sunday, the ACTUAL holiday, will receive the holiday pay rate of one and half (1 ½) times the normal hourly rate. The employee who works on Monday, the observed holiday, will receive the eight (8) hours of holiday leave pay and regular pay for the time they work on the observed holiday.

In cases where an employee works both the actual holiday and the City observed holiday, only the actual holiday will be considered a holiday for the purposes of using the holiday pay rate.

The starting date of employees' shifts will be used to determine whether the employee worked the holiday. For example, if an employee's shift begins at 7:00 p.m. on Christmas Eve and continues through 7:00 a.m. on Christmas morning, they will not be considered to have worked the holiday. If the employee works from 7:00 p.m. on Christmas Day to 7:00 a.m. on December 26th, they will be considered to have worked the holiday for the entire shift.

See Section 5-16. Paid Holidays for a list of City observed holidays.

Bi-Lingual Pay

Regular non-exempt employees may be compensated at a rate of \$.26 per hour for their bilingual abilities based on the following conditions:

- A. The language is recognized by the City Manager as adding to the increased productivity and efficiency of the City.
- B. Must prove proficiency by meeting the standards established and administered by the Human Resources Department.
- C. Employee will be available during work hours to translate when requested by City personnel.
- D. If the need for the ability exists and the Departmental budget allows for the additional costs, as determined by the Department Director.
- E. Bilingual pay may be removed at any time when determined to be in the best interest of the City as determined by the City Manager.

Exempt employees are not eligible for this benefit.

Wage Garnishments and Assignments

It is the policy of the City to comply with all lawful claims against the wages of our employees, such as garnishments, assignments, and child support orders.

In accordance with applicable federal and state laws, corrective action may not be taken against any individual whose wages have been garnished or assigned. When the City receives a garnishment or assignment, the Finance Department will be responsible for informing the employee of the notice received, and will maintain such records.

Pay Days

Paychecks shall be issued bi-weekly, on Thursday, or as designated by the City Manager. A payroll period consists of two calendar weeks from Sunday midnight to Sunday midnight, or the end of the shift in progress at that time.

Work Week

Except as otherwise provided by a labor agreement, the Department Director shall assign the work day. The workweek shall be a seven (7) day period beginning on Monday at 12:01 a.m. and continuing through Sunday at midnight. This regulation does not apply to employees who are FLSA "exempt".

The City Manager has the authority to establish work periods that are within the Fair Labor Standards Act. These periods will be in writing by the City Manager and maintained in the Human Resource Department.

Time Clock

- A. Non-exempt employees will clock in and out at their scheduled time.
- B. Falsification of time records including, but not limited to clocking in/out for a coworker is a breach of this policy. Any errors or accidental omissions must be documented on an exception report and signed by the employee, the supervisor, and the Department Director.
- C. Department Directors have overall responsibility for the timely and accurate submission of employee time through the City's timekeeping system. Actual time entry may be delegated to a department employee.

3-2. Unemployment Insurance

The City provides for Unemployment Insurance benefits for all employees as required by law.

Section 4 - Operational Policies

4-1. Probationary Period

The first six (6) months for regular employees, one (1) year for sworn Police positions, and one (1) year for Firefighter and Fire Command personnel, of your employment is a probationary period. This is an opportunity for the City to evaluate the employee's performance. It also is an opportunity for the employee to decide whether he or she is happy being employed by the City.

Probationary employees may be terminated at anytime with or without cause and may not appeal a termination.

An employee who is selected for a transfer or promotion shall commence another six (6) month probationary period. This provision includes sworn Police positions, Firefighters, and Fire command personnel only if transferring or promoting within the same Department. Employees commencing a subsequent probationary period will be eligible for any leave benefits they were entitled to prior to the transfer or promotion.

At the conclusion of the probation period it shall take an affirmative action through completion of a written Performance Evaluation, and a Personnel Status Form to place the employee in a regular non-probationary status.

If timely affirmative action is not taken the employee will be considered to have successfully completed their probationary period on the effective date of the probationary period end date. The Evaluation and Personnel Status Form will still be required.

The City may extend the probationary period if it desires. Any extension of the probationary period may be done after a written Evaluation, a Performance Improvement Plan (PIP), and a Personnel Status Form are completed prior to the conclusion of the probationary period. The request to extend the probation period shall document the employee's abilities, in-abilities, demonstrated potential, expectations, and the situation in general. Probation period extensions are done only upon recommendation by the supervisor to the Department Director, through the Human Resources Office, and notice to the employee. Any extensions of the probationary period will be completed prior to the last day of the initial probationary period end date.

Extensions of the probationary period will only be for an additional period of up to six (6) months.

4-2. Performance Review

City of Alamogordo endeavors to review performance annually. A positive performance evaluation does not guarantee an increase in salary, a promotion or continued employment. Compensation increases and the terms and conditions of employment, including job assignments, transfers, promotions, and demotions, are determined by and at the discretion of management.

Performance Evaluations

Each regular employee shall be given a written performance evaluation in accordance with the following time factors:

- A. At completion of the probationary period and extension of probationary period if applicable;
- B. At mid point of probationary period if employee is serving a one (1) year probationary period;

C. For an annual evaluation period of March 1 through February of the following year; evaluations are due within thirty (30) days of the expiration of the evaluation period.

Special Evaluations

Employees should be evaluated under the following special circumstances:

A. Progress of an employee's performance may be provided to probationary employees periodically throughout their probationary period. This communication may be either written or verbal, but must be documented.

B. When there is a notable change, either positive or negative, in an employee's performance level and quality.

Performance Evaluations will be submitted to Human Resources for an initial review of language prior to issuing to the employee. The Human Resources Department may refer questionable evaluations to proper management levels for resolution.

The employee shall have the opportunity to input information, to agree or disagree, and should sign the document acknowledging the receipt of the evaluation. Should an employee refuse to sign, the supervisor should have another supervisor witness the employee's refusal to sign the evaluation.

In addition to these formal performance evaluations, the City encourages employees and supervisors to discuss job performance on a frequent and ongoing basis.

Completed evaluations shall be forwarded to the Human Resource Department for final review and/or action i.e., removal of introductory status, or other action related to the evaluation, and filing of the evaluation in the employee's personnel file.

Unsatisfactory Evaluations

Marginal or unsatisfactory performance is unacceptable. If an overall rating of an employee's performance is marginal or unsatisfactory the employee may be subject to a Personal Improvement Plan (PIP) from their supervisor through the Department Director and the Human Resources Office.

4-3. Employment Records

The employee should keep his or her personnel file up to date by informing the Human Resources Office of any changes. The employee also should inform the Human Resources Office of any specialized training or skills he or she may acquire in the future, as well as any changes to any required visas. Unreported changes of address, marital status, etc. can affect withholding tax and benefit coverage. Further, an "out of date" emergency contact or an inability to reach the employee or emergency contact in a crisis could cause a severe health or safety risk or other significant problem.

The official personnel records for each employee are maintained in the Human Resources Office, and are the property of City of Alamogordo. Such records may include the employee's application, the original copy of each Personnel Status Change Form, performance evaluations, corrective action documents, attendance and leave records, and any other pertinent information.

Inclusion of documents in the employee's personnel file is at the discretion of Human Resources and/or the City Manager.

Departments may maintain unofficial personnel records for their employees, which may include copies of each personnel Status Change Form, performance appraisals, corrective action documentation, attendance and leave records, and any other pertinent information.

Confidential auxiliary files containing personal benefit, Workers' Compensation, Family Medical Leave, background, medical and/or treatment records, and investigations may be kept and are the property of the City of Alamogordo. Such records may include, but are not limited to health insurance enrollment information, beneficiary information, physical examination reports, health history reviews, laboratory test results, reports from physicians and psychologists, hospital records, and other medical reports.

The City Manager, or designee, shall be the final authority for approval or disapproval of all personnel transactions.

Personnel records will only be released as allowed in the State of New Mexico Inspection of Public Records Act (IPRA).

Personnel records will be retained in accordance with the New Mexico Administrative Code and the Health Insurance Portability and Accountability Act (HIPAA).

4-4. Medical Examinations/Alcohol/Drug Screening

City employees may be required to take medical and or alcohol/drug tests by the City's designated provider.

4-5. Psychological Examinations

As a condition of employment or continued employment, City employees may be required to take psychological examinations by a City approved health care provider.

4-6. Working Hours and Schedule

City of Alamogordo is typically open for business from 8:00 am to 5:00 pm, Monday through Friday. However, some Departments of the City provide services outside of the typical business week. Employees will be assigned a work schedule and will be expected to begin and end work according to the schedule. To accommodate the needs of our citizens, the City reserves the right to change individual work schedules on either a short-term or long-term basis.

4-7. Timekeeping Procedures

Employees must record their actual time worked for payroll and benefit purposes. Non-exempt employees must record the actual time the performance of work begins and ends, as well as the beginning and ending time of any departure from work for any non-work-related reason. Exceptions or corrections to the work schedule will be submitted on forms as prescribed by management.

Non-exempt employees may not start work until their scheduled starting time and may not work beyond their scheduled work hours without prior approval.

Exempt employees are required to record absences from work.

Altering, falsifying or tampering with time records is prohibited and subjects the employee to discipline, up to and including termination.

It is the employee's responsibility to sign time records to certify the accuracy of all time recorded. Any errors in the time record should be reported immediately to a Supervisor or Time Keeper, so the City can resolve the matter quickly and amicably.

4-8. Overtime

During periods of extremely high activity, additional work may be required. Supervisors are responsible for monitoring business activity and requesting overtime work if it is necessary. Effort will be made to provide employees with adequate advance notice in such situations.

Any non-exempt employee who works overtime will be compensated at the rate of one and one-half times (1.5) his or her normal hourly wage for all time worked in excess of forty (40) hours each week, unless otherwise required by law.

Employees may work overtime only with prior management authorization.

For purposes of calculating overtime for non-exempt employees, the workweek begins at 12:01am on Monday and ends 168 hours later on Sunday at midnight.

Exempt employees are not eligible for overtime or comp time compensation.

4-9. Safe Harbor Policy for Exempt Employees

It is our policy and practice to accurately compensate employees and to do so in compliance with all applicable state and federal laws. To ensure proper payment and that no improper deductions are made, employees must review pay stubs promptly to identify and report all errors.

Employees classified as exempt salaried employees will receive a salary which is intended to compensate them for all hours they may work for City of Alamogordo. This salary will be established at the time of hire or classification as an exempt employee. While it may be subject to review and modification from time to time, such as during salary review times, the salary will be a predetermined amount that will not be subject to deductions for variations in the quantity or quality of the work performed.

Under federal and state law, salary is subject to certain deductions. For example, unless state law requires otherwise, salary can be reduced for the following reasons:

- Full-day absences for personal reasons;
- Full-day absences for sickness or disability;
- Full-day disciplinary suspensions for infractions of any City policy and/or City of Alamogordo Ordinances;
- Family and Medical Leave absences (either full- or partial-day absences);
- To offset amounts received as payment from the court for jury and witness fees or from the military as military pay;
- The first or last week of employment in the event the employee works less than a full week; and
- Any full work week in which the employee does not perform any work.

Salary may also be reduced for certain types of deductions such as a portion of health, dental or life insurance premiums; state, federal or local taxes; social security; or contributions to a deferred compensation or pension plan.

In any work week in which the employee performed any work, salary will not be reduced for any of the following reasons:

- Partial day absences for personal reasons, sickness or disability;
- An absence because the employer has decided to close a facility on a scheduled work day;
- Absences for jury duty, attendance as a witness, or military leave in any week in which the employee performed any work (subject to any offsets as set forth above); and
- Any other deductions prohibited by state or federal law.

However, unless state law provides otherwise, deductions may be made to accrued leave for full- or partial-day absences for personal reasons, sickness or disability.

Exempt employees who are absent from the workplace less than a full day, but more than half of their scheduled work day are required to use accrued leave for the number of hours equal to half of the work day.

If the employee believes he or she has been subject to any improper deductions, the employee should immediately report the matter to a supervisor. If the supervisor is unavailable or if the employee believes it would be inappropriate to contact that person (or if the employee has not received a prompt and fully acceptable reply), he or she should immediately contact Department Timekeeper, Human Resources, or any other supervisor in City of Alamogordo with whom the employee feels comfortable.

4-10. Paychecks

The employee will be paid bi-weekly for all the time worked during the previous pay period.

Payroll stubs itemize deductions made from gross earnings. By law, the City is required to make deductions for Social Security, federal income tax and any other appropriate taxes. These required deductions also may include any court-ordered garnishments. Payroll stubs also will differentiate between regular pay received and overtime pay received.

If there is an error in an employee's pay, the employee should bring the matter to the attention of their supervisor or time keeper immediately so the City can resolve the matter quickly and amicably.

Paychecks will be given only to the employee, unless he or she requests that it be mailed, or authorizes in writing another person on the City's designated form, to accept the check.

4-11. Direct Deposit

City of Alamogordo encourages employees to use direct deposit for payroll purposes. Authorization forms are available from Human Resources or Payroll.

The first and last check can be an actual check if requested by the employee at least seven (7) days prior to pay day.

4-12. Early Release of Paycheck

City of Alamogordo will permit the early release of a paycheck prior to a scheduled pay date. Any early release will not be an advance payment of services not rendered as prohibited by Section 30-23-2 NMSA1978.

Requests for the early release must be submitted on the City designated form and have the prior approval of the Department Director, Finance Director, and City Manager.

Approved forms will be submitted to Payroll for processing.

4-13. Investigations, Inquiries, and Audits

The City reserves the right to conduct appropriate investigations, inquiries or audits for the purpose of monitoring the adherence of all City employees to all policies and procedures.

City employees must cooperate with investigations pursuant to Garrity Rights originating from a 1967 United States Supreme Court decision, Garrity v. New Jersey.

The complainant will receive notice of completion of the investigation; however, the complainant is not privy as to what action was taken, if any.

Requests for copies of investigations are made through the City Clerks Office pursuant to the New Mexico Information and Public Records Act.

4-14. False Statements/Fraud

No employee shall willfully or corruptly;

- make any false statement; or
- falsify or alter official documents/records; or
- mark rating or report falsely with regard to any test, certification, appointment or investigation; or
- in any manner commit any fraud, conceal any wrongdoing, or knowingly withhold information about wrongdoing in connection with employment with the City or with work-related conduct of any City employee.

4-15. Corrective Action Procedures

Policy

It shall be the policy of the City to administer corrective action fairly, reasonably, and impartially. Employees and the City are best served when corrective action is administered to correct actions rather than to punish.

Grounds for Corrective Action

The continued employment of City employees shall be based on reasonable standards of job performance and personal and professional conduct. Refusal to meet these standards or comply with City policies shall constitute just cause for corrective action including, but not limited to Alternative Dispute Resolution, verbal or

written reprimands, suspensions, demotions, termination, arrest, and/or prosecution.

Type of Action Administered

Corrective action is not primarily intended to be punitive, but rather to maintain the efficiency and integrity of City service. The degree of corrective action administered will depend on the nature and severity of the infraction and the employee's prior record. Management has the right to bypass the progressive discipline process. Corrective action shall be in accordance with any applicable City policies and procedures as well as local, state, and federal laws and regulations.

It is the responsibility of each supervisor and department head to evaluate thoroughly the circumstances and facts as objectively as possible, follow the corrective action procedures outlined herein, and apply the most suitable form of corrective action.

The Corrective Action form is required for all corrective actions.

See Section 1-15. for Alternative Dispute Resolution information.

Corrective Action Procedures

Depending on the type of action administered, there are different procedures required for issuing corrective action. Some of these procedures are required by law.

In any major corrective action, the pertinent information shall be reviewed with the employee specifying the following: The cause for discipline, the specific reasons supporting the cause, the discipline to be imposed, the effective date, and the right of the employee to be heard.

Corrective actions in the form of verbal warnings and written reprimands are the responsibility of each supervisor and do not require intervention by the Human Resources Department. Supervisors shall inform the Department Director of verbal warnings and written reprimands given and the procedure outlined in the Verbal Warning and Written Reprimand section(s) will be followed.

All corrective actions involving suspensions without pay, demotions, or termination require consultation with the Human Resource Director prior to corrective action being administered to ensure actions are being administered fairly, consistently, and in compliance with applicable laws.

Verbal Warning

This type of corrective action should be applied to infractions of a relatively minor degree or in situations where the employee's performance needs to be discussed. The verbal warning should be given in private, and the reason and date for the warning documented in writing. Supervisors should inform the employee that the supervisor is issuing a verbal warning, that the employee is being given an opportunity to correct the condition, and if the condition is not corrected, the person will be subject to more severe corrective action. Records of verbal warnings will be kept by the supervisor or manager. A documented verbal may be used as a basis for further progressive discipline.

Written Reprimand

This notice will be issued in the event the employee continues to disregard a verbal warning or if the infraction is severe enough to warrant a written reprimand.

The reprimand shall state:

- the nature of the infraction;

- what action must be taken by the employee to avoid further corrective action, up to and including termination;
- when correction of the infraction is expected;
- policies or procedures violated; and
- and what the employee's rights are in the corrective action process.

A copy of the written reprimand is to be given to the employee at the time of the discussion of the corrective action. The employee shall sign the written reprimand to acknowledge receipt. A copy, signed by the employee, will be forwarded to the Human Resource Department and placed in the employee's personnel file. If the employee refuses to sign the acknowledgment, then the supervisor and one other witness, of a supervisory capacity, shall note on the reprimand that the employee received a copy thereof and refused to sign it.

Suspension Without Pay

The Department Director may take this form of corrective action only after consultation with the Human Resource Director as a result of a severe infraction of policies or for repeated violations. Suspensions shall not exceed thirty (30) work days.

FLSA exempt employees may be suspended for one (1) or more full days for infractions of City of Alamogordo Ordinances, Citywide and Departmental policies and procedures, and any applicable laws regulated by an outside authority.

Suspensions Pending Investigation

An employee may be suspended in cases where it is necessary to investigate a situation to determine what corrective action may be justified. This suspension gives the supervisor the opportunity to investigate the situation when it is serious enough for the employee to be removed from the work environment. Investigatory suspensions may be with or without pay. If after the investigation, it is determined that the employee was not guilty of any violation, the employee will be returned to work, paid for any lost time, and cleared of all charges. If, however, the employee is found in violation, then the appropriate corrective action may take effect on the date that the suspension began.

Demotions

Demotion may be used in those instances where an employee is unwilling or unable to perform the responsibilities of the position. Demotion is not to be used as a substitute for dismissal, when dismissal is warranted.

The pay rate of an employee who is demoted may be reduced to the appropriate rate of the new pay grade of the position into which the employee is demoted.

Involuntary Termination

Employees may be recommended for termination in instances involving, but not limited to, insubordination, theft, illegal or destructive acts. An involuntary termination will require the Human Resource Director consultation prior to being administered by the Department Director. An employee may also be dismissed after repeated offenses of a less serious nature if the supervisor has documented the offenses and appropriate behavioral changes have not resulted from previous corrective action.

Probationary employees may be terminated at any time and may not appeal this action.

Informal Appeal

Written reprimands may be appealed informally to the employee's Department Director. The employee must present a written appeal to his or her department Director within seven (7) calendar days of the disciplinary action. The Director shall attempt to resolve the matter within seven (7) calendar days after it has been presented to him or her. The decision of the Department Director shall be final. Verbal warnings cannot be appealed informally.

Pre-Disciplinary Hearing Process

A pre-disciplinary hearing shall be made available to any employee who will be subject to a demotion, suspension without pay, or termination. The pre-disciplinary hearing process shall be as follows:

A. An employee shall be provided, in writing, with a notice citing the specific incidents constituting just cause; citing the violation of any statute, ordinance, rule or policy; provide an explanation of the documentation, evidence and/or facts relied upon by the department; specify the contemplated disciplinary action; and state that the employee has seven (7) calendar days from service of the notice of contemplated disciplinary action to respond in writing as to why the proposed action should not be taken, or to request a pre-disciplinary hearing with the Department Director for that same purpose. A request for a pre-disciplinary hearing will not preclude the employee from submitting his or her written version and mitigating evidence to the Department Director no later than the start of the pre-disciplinary hearing.

B. If the proposed discipline is termination, the employee is not eligible for administrative leave with pay during the pre-disciplinary process. However, if the Director does not uphold the proposed termination, the employee will be back-paid for this period.

C. If the employee requests a pre-disciplinary hearing, the Human Resources Director shall arrange for a hearing before the Department Director, within seven (7) calendar days, and prior to imposing the corrective action. Union represented employees shall have the right to union representation at the pre-disciplinary hearing. The pre-disciplinary hearing is non-adversarial and, if the employee has a person accompany him or her to the hearing, that person is not entitled to be an advocate.

D. The department's pre-disciplinary notice provided to the employee prior to the hearing shall be sufficient to apprise the employee of the basis for the proposed disciplinary action. Reliance upon the contents of the pre-disciplinary notice shall not limit the City at subsequent hearings from presenting witnesses testimony and additional documentation not submitted prior to or during the pre-disciplinary hearing. The purpose of a pre-disciplinary hearing is to give the employee the opportunity to respond to the pre-disciplinary notice and to provide information why the proposed action should not be taken. The rules of evidence shall not apply to the pre-disciplinary hearing, nor are there specific procedural regulations for the conduct of the hearing. Additionally, the hearing shall not be recorded by audio or visual equipment nor should there be any attempt to make a verbatim record of the proceedings.

E. Should the Department Director determine to discipline following the pre-disciplinary hearing, written notice of discipline shall be given to the employee. In any case, a written response will be provided to the employee within seven (7) calendar days. Such notice shall include a general statement of the findings of the hearing and notice of the employee's right to appeal to the City Manager. If the sustained discipline is termination, the termination will be effective upon notice being given to the employee. All other corrective actions will be imposed as described in the notice, unless the employee and Department Director otherwise agree.

Nothing in these procedures is designed to supersede or prevent an employee from availing himself or herself of the City's grievance procedure.

Formal Appeal

Any employee who is disciplined following the pre-disciplinary hearing may appeal the decision of the Department Director to the City Manager. This formal appeal must be filed within seven (7) calendar days of receipt of the decision of the Department Director. The City Manager shall schedule a hearing within seven (7) calendar days of receipt of the appeal from the employee. The employee may have legal counsel and or witnesses at the hearing to present evidence that support the appeal, but must notify the Human Resource Director that they intend to do so at least two (2) business days before the hearing. The Formal Appeal Hearing shall be recorded as a verbatim record of the proceedings. The City Manager must render a written decision within seven (7) calendar days following the hearing. The decision of the City Manager will be final and binding. Should a termination result, the termination date will be the same date as determined by the Director following the pre-disciplinary hearing. If a decision to terminate is over turned, administrative pay will be paid.

Extension of Time Limits

Any of the time limits in the corrective action procedure may be extended upon mutual agreement. However, if no action is taken within one (1) calendar year from the date of the appeal to the Department Director or the City Manager the Appeal will be considered closed and the action upheld.

4-16. Grievance Process

It is the policy of the City to afford all employees a means of obtaining further consideration of problems when they remain unresolved at the supervisory level, and to establish policies and procedures that provide for timely resolution of grievances. Included below is a preliminary step which encourages, whenever possible, the use of mediation to resolve conflict. This step is intended to urge the consideration of the option of mediation, but in no way limits or preempts other remedies to which employees and the City are entitled by law. Whenever possible and appropriate, the employee considering filing a grievance may file a request for mediation with the Human Resources Department prior to initiating the grievance process outlined below. When mediation is pursued, participation in such session will be limited to the two parties involved and the mediator. Other parties may be included, exclusive of any representative or attorney, at the discretion of the mediator. Further, when mediation is pursued, all time limitations will be tolled as of the filing of the request for mediation with the Human Resources office and until such time as the mediation is completed. If agreement is not reached through mediation, the procedures outlined below may ensue.

A "grievance" shall mean a complaint, made by a regular full-time or regular part-time employee, which alleges an unjust application, interpretation, or violation of the rules and regulations of the City or Department that:

1. a specific administrative act was arbitrary or capricious and adversely affected the employee's then-existing terms or conditions of employment, and/or;
2. involves improper discrimination or treatment prohibited by the Constitution of the United States and State of New Mexico, or federal and or state statutes, and/or;
3. a violation of applicable City rules, regulations, or personnel policies which adversely affected the employee's then-existing terms or conditions of employment.

For the purposes of this policy, an act is not arbitrary or capricious if the decision-maker exercised reasoned judgment.

The following matters are not grievable:

- lay-offs,
- changes in policies and procedures,
- performance evaluations,
- transfers or promotions,
- changes in duty stations or shifts,
- all corrective actions,
- levels of compensation, and/or,
- other matters of inherent management rights, unless they are directly related or a direct consequence of a grievable matter.

If a question arises with regard to whether an issue is a grievable matter the City Manager reserves the right to make that determination.

Strict adherence to the procedures outlined below is mandatory for all concerned, except that time limits may be extended upon mutual agreement or good cause shown.

Reasonable attempts will be made to resolve the grievance to the mutual satisfaction of the employee and the City.

STEP 1: An employee must present a grievance in writing within seven (7) calendar days of its alleged occurrence or within seven (7) calendar days of when the employee should have reasonably known of the occurrence to the employee's immediate supervisor and Department Director, who shall attempt to resolve it within seven (7) calendar days after it is presented to them.

STEP 2: If the employee is not satisfied with the decision of the Department Director, the employee must submit the grievance, in writing, to the City Manager's office within seven (7) calendar days of receipt of the Department Director's decision. This written notice shall include the following:

- A. Statement of the grievance and relevant facts.
- B. Specific remedy sought.
- C. Reasons for the dissatisfaction with Department Director's decision.

Note: Issues not presented to the Department Director will not be considered in an appeal to the City Manager. If the grievance presented does not include the specified requirements in Step 2, A.-C., the grievance will be rejected.

STEP 3: Within seven (7) calendar days of receipt of the employee's written grievance the City Manager shall schedule a hearing. The employee may be accompanied by another employee or union conferee. Such conferee must attain a release from their supervisor and will be considered in pay status during their regularly scheduled workday hours. The purpose of the hearing is for the employee to present any information pertinent to the grievance. The hearing will be recorded. The employee and Department Director may call witnesses to testify about information relevant to the grievance. Within seven (7) calendar days of the hearing the City Manager will provide the employee a written decision. The decision of the City Manager will be final and binding.

Protection Against Retaliation - The City and its employees will not retaliate against any person who, in good faith, uses the grievance procedure.

4-17. Classification of Positions

All positions/classifications in the City's service shall be grouped into classes and each class shall include those positions sufficiently similar as to character of work, required performance, and level of responsibility, so that:

- A. An equivalent level of training, experience, knowledge, and ability, and other qualifications may be required of incumbents;
- B. Comparable tests of such qualifications may be used to select incumbents; and
- C. The same salary range will apply with equity under substantially equal working conditions; or
- D. Positions that are unusual for reasons such as market demand will be classified according to reasonable market standards.

Position descriptions and job specifications shall be maintained by the Human Resource Office for all positions. Any changes to position descriptions must be submitted to Human Resources. Requests that result in a position's reclassification will require the City Manager's approval.

The position descriptions should include: Job Title, Department, Division, FLSA Status, Effective Date, Summary of Position, Supervision Received, Supervision Exercised, Essential Functions, Other Duties, Minimum Qualifications, Special Requirements, Working Conditions, History Summary, Job Hazard Analysis, and Approval section.

Reclassification Procedure

Revision of position descriptions and re-allocations within the classification plan shall be made as often as is necessary to provide current information on positions and classes.

It shall be the duty of the Human Resource office to examine the nature of all positions and to allocate them to existing or newly created classes, to make changes in the duties and responsibilities of existing positions.

When a new position is requested by a Department Director or the duties of an old position are substantially changed, the Department Director shall submit a change request form and written recommendation to the Human Resource Office including justification for the reclassification, emphasizing changes in position responsibilities or requirements for qualifications (i.e., experience, education, certifications, etc.).

The request will be reviewed by the Human Resource Office. The Human Resource Department will use a standardized method in reviewing new position descriptions or requests for changes to existing position descriptions. This method will value the position responsibilities, requirements and qualifications to accurately classify or reclassify the position.

If the request is justified, the budget impact will be determined, and a recommendation will be made to the City Manager. The City Manager shall be the final decision-maker for all reclassification requests. If approved, the Human Resource Office will take the necessary steps to implement the reclassification. No reclassification involving an upgrade of salary that would overspend the authorized department budget will be approved without City Commission approval.

4-18. References

City of Alamogordo will respond to reference requests through the Human Resources Department. The City will provide general information concerning the employee such as date of hire, date of separation, rehire eligibility status, and positions held.

Requests for further information must be in writing and a release from the individual the request is for must be obtained. These responses will be returned in writing based on information verifiable in the employee or former employee's personnel file.

This policy does not prohibit an employee from giving a personal reference as long as the employee is not acting as a representative of the City and the reference is not on City letterhead.

Please refer all requests for City references to the Human Resources Department.

4-19. Separation from Employment

Voluntary Termination

Should an employee decide to leave the City, we ask that he or she provide their supervisor with at least two (2) weeks, or four (4) weeks when retiring through PERA, advance written notice of departure. Thoughtfulness will be appreciated.

Failure to comply with this policy may be cause for denying re-employment with the City.

Where an employee resigns to avoid dismissal or other corrective action, the resignation may be accepted at the discretion of the Department Director with City Manager approval, and the employee will not be subject to rehire.

Retirement

Service retirement is voluntary termination after having satisfied the requirements of P.E.R.A. Retiring employees are requested to give the City at least four (4) weeks written notice prior to retirement date.

Involuntary Termination

This action is originated by the City and may be initiated for a variety of reasons to include, but not limited to:

- A. Termination during the probationary period.
- B. Termination for cause.
- C. Layoff.

Disability Retirement

This is an involuntary termination that is necessitated by an injury or illness, which renders the employee incapable of performing his/her job duties. The retirement will be in accordance with P.E.R.A.

Layoff

Layoff is an involuntary termination of employment for lack of work, lack of funds, reclassification of positions, re-organization of the City's work force, elimination of positions or other changes that have taken

place.

The City Manager is responsible for administering the layoff or reduction in force.

No regular full-time, non-probationary, employee shall be laid off involuntarily if there is a vacant position for which the employee is qualified. The City Manager is responsible for offering transfers or re-employment to employees facing layoff. Employees who accept another position are considered to have voluntarily transferred.

The City will provide at least thirty (30) days advance notification prior to layoff, except in the case of an emergency.

Employees with the least amount of seniority within their position shall be laid off first.

Recall from Layoff

Laid off employees shall be recalled for vacancies based on those who meet the minimum requirements of the vacant positions. Where applicable, employees who are equally qualified will be recalled by seniority. When an employee does not respond to the City's recall notice within seven (7) calendar days, the City's obligation to recall the employee shall cease. The City shall have no obligation to recall an employee after he or she has been on continuous layoff for a period that exceeds one (1) year.

Abandonment

Employees who are absent from their job for one (1) shift or work day without notifying their supervisor are considered to have abandoned their job. The employee may apply for reinstatement directly to the City Manager. If the City Manager determines that the employee is to be reinstated, such time missed will be charged against the employee's accrued leave or leave without pay.

Return of City Property

All City property including, but not limited to: I.D. cards, laptop computer, keys, radios, tools, cell phones, City credit cards, uniforms, policy and procedure and/or rules and regulation manuals, etc., must be returned at separation. Employees also must return all of the City's confidential information upon separation. To the extent permitted by law, employees will be required to repay the City, (through payroll deduction, if lawful) for any lost or damaged City property.

Any item that identifies a person as a City employee must be returned upon separation. This does not include employee appreciation gift items.

Footwear and lifeguard uniforms are not required to be returned.

4-20. Exit Interviews

All employees, either separated voluntarily or involuntarily must report to the Human Resource Department for end of employment processing.

Exit Interview

All regular employees who separate from the City's service may be requested to participate in an exit interview on forms provided by the Human Resource Department. Participation in completing the exit interview form is voluntary on the part of the exiting employee.

Exit interviews are often helpful to determine fully not only why an employee has decided to resign, but to seek out opportunities for improvement in the City's overall operations and employee relations. Department Directors and the employee's supervisor(s) will receive a copy of the ex-employee's exit interview.

Section 5 - Benefits

5-1. Benefits and Leave

In addition to good working conditions and competitive pay, it is City of Alamogordo's policy to provide a combination of supplemental benefits to all eligible employees. These benefits include time-off benefits, such as paid time off and holidays, and insurance and other plan benefits.

The next few pages contain a brief outline of the benefit programs City of Alamogordo provides employees and their families. The information presented here is intended to serve only as guidelines and continuation of benefits are not guaranteed.

The descriptions of the insurance and other plan benefits merely highlight certain aspects of the applicable plans for general information only. The details of those plans are spelled out in the official plan documents, which are available for review upon request from the Human Resources Office or on line at www.mybenefitsnm.com. Additionally, the provisions of the plans, including eligibility and benefit provisions, are summarized in the summary plan descriptions ("SPDs") for the plans (which may be revised from time to time). In the determination of benefits and all other matters under each plan, the terms of the official plan documents shall govern over the language of any description of the plans, including the SPDs and this manual.

Further, City of Alamogordo (including the officers and administrators who are responsible for administering the plans) retains full discretionary authority to interpret the terms of the plans, as well as full discretionary authority with regard to administrative matters arising in connection with the plans and all issues concerning benefit terms, eligibility and entitlement.

While the City intends to maintain these employee benefits, it reserves the absolute right to modify, amend or terminate these benefits at any time and for any reason.

If employees have any questions regarding benefits, they should contact the Human Resources Office.

5-2. Deferred Compensation

The City allows an option to any regular employee to invest a portion of his or her earnings into a Deferred Compensation Plan. The employee may request a payroll deduction to be administered by the Human Resources Office for this purpose.

5-3. Education Assistance

The City, subject to the availability of funds, may provide education assistance to regular non-probationary employees. The courses or training program or type of degree must enhance or create a skill that is directly related to the employee's profession, skill or craft, and must demonstrate a benefit to the City. The determination for reimbursement is the responsibility of the Department Directors and will be handled in accordance with the City's Educational Assistance Internal Policy.

Employees are expected to attend courses on their own time unless other arrangements are pre-approved.

Education reimbursement will be based on a grade of "C" or Pass. A "D" or failing grade will result in the denial of the reimbursement.

To be reimbursed, employees must still be employed by the City when evidence of satisfactory course completion is received. **EXCEPTION:** Employees whose employment is terminated, because of a downsizing or reorganization will be reimbursed if they complete their course work after their employment is terminated. Employees will be required to serve a pre-determined tenure of service upon completion of the course or will be responsible for paying the City back on a pro-rated basis for the educational reimbursement received for the course.

5-4. Employee Assistance Program

City of Alamogordo provides an Employee Assistance Program (EAP) for employees and their dependents. This program offers qualified counselors to help cope with personal or work related problems.

The City of Alamogordo may provide an Employee Assistance Program (EAP) subject to the availability of funds. The purpose of this program is to provide employees and their immediate family members with assistance in resolving personal problems that may have an adverse effect on job performance. The program may deal with a broad range of human problems such as emotional, behavioral, family, marital, alcohol and/or substance abuse, financial, legal, or other personal problems.

When an employee uses this program by self-referral, their use will be confidential and will remain anonymous to the City. Self-referral usage of the EAP is limited to the provisions of the contract with the EAP provider. Employees who use the EAP on their own will be required to use accrued leave or take leave without pay to attend appointments during work hours.

A Director may refer an employee to the EAP as a condition of continued employment. In these cases, the information the employee discusses with their provider will remain confidential under provider, client privileges. The City will be provided information from the provider regarding the employee's attendance and fitness to safely perform the essential functions of their job. Employees who are referred to the EAP by their supervisor will be allowed a reasonable amount of administrative leave with pay to attend appointments that occur during their normal work hours.

Contact the Human Resources Department for further information.

5-5. Insurance Programs

Health, Dental, Vision, and Disability Coverage

Regular full-time or part-time employees may participate in the City's health, dental, and vision insurance programs.

All regular full time employees are eligible to join the City's Group Insurance Plan, which provides coverage for the employee and the employee's dependents. Participation is subject to the City's and the Carrier's Agreement which is on file with the Human Resources Department. The City's participation in providing Group Medical Insurance is subject to modification, termination, or change of carrier at any time. The City pays a portion of the plan as approved by the City Commission.

Participation is on a voluntary basis and the employee may join or withdraw from the plan at any time the plans and IRS rules allow.

An employee requesting coverage is required to apply for coverage within the first thirty (30) days of employment, otherwise enrollment will not be available until open enrollment or a qualifying event has occurred.

Continuation of medical coverage will be in compliance with any applicable laws.

Employees meeting eligibility requirements under the Affordable Health Care Act will be responsible for their share of premium costs which meets guidelines under the Act.

Regular part time employees that work a minimum of twenty (20) hours per week are eligible to enroll in the City's group insurance plans. Regular part time employees will be responsible for 100% of the premium costs.

Upon becoming eligible to participate in these plans, you will receive information on obtaining Summary Plan Descriptions (SPDs) describing the benefits in greater detail. Please refer to the SPDs for detailed plan information.

Basic Life Insurance Coverage

All regular full time and regular part time employees that work a minimum of twenty (20) hours per week are eligible to receive, at no cost to the employee, a Basic Life Insurance policy.

5-6. Recreational Facilities Benefit

All employees shall be permitted to use the City's recreational facilities and equipment, including the swimming pool, that are located at its Recreational Center at no cost to the Employee. The gym at the Senior Center may also be used at no cost to the employee. Family members and guests will be required to pay the normal charges. Employees will be given a twenty percent (20%) discount on any recreational activity or other programs offered or sponsored by the City's Community Services Department. The discount applies only to the participation of the employee, the employee's spouse or the employee's minor dependent(s). Participation at the discounted rate will only be available in the event the program has available space. Employees shall be given the "junior golf green fee rate" at the City's golf course, The Desert Lakes Golf Course. Family members and guests will be required to pay the normal charges. Rental charges for golf carts and other charges or fees will be at the normal rate. Employees will be charged the non-profit rate for rental of the Civic Center Facility.

City Retirees will continue to be eligible for these services after they retire. City Retirees will be provided with an ID card from the Human Resources Department to receive these discounts. For the purpose of this policy a City Retiree is defined as an employee retiring in good standing under City employment and under the New Mexico PERA Retirement System.

5-7. Retirement Plan

Retirement

Any employee who qualifies as mandatory under PERA guidelines, except the City Manager who has the option of joining the ICMA 401 Plan in lieu of PERA, participates in the Public Employees Retirement Association of New Mexico (PERA).

Enrollment and benefit forms are provided by the Human Resource's Office. It is the employee's individual

responsibility to keep information related to their retirement account as to name, address, and beneficiary up to date.

Retiree Health Care

As part of the City's participation in PERA, eligible employees participate in the New Mexico Retiree Health Care Authority. This participation provides the benefit of health insurance to PERA retirees.

Detailed information on specific retirement benefits is available at www.nmpera.org for PERA and at www.nmrhca.org for Retiree Health Care Authority.

5-8. Training

Where the City is the one requiring additional certification or licensing beyond any required for appointment to the position held or sought by any regular full time employee, the City will be responsible for scheduling and paying all costs associated with the acquisition of the required training or licensing.

Where training is approved, employees must comply with the Finance Department's guidelines for payment and reimbursements of training. Department Directors shall not approve City paid time or training funds for employees seeking training outside their assigned classification and where the City does not request it.

The City may, subject to the availability of funds and the Department Directors approval, pay for necessary training for employees who are required to maintain a license or certificate as outlined in the employees job description.

5-9. Workers' Compensation

On-the-job injuries are covered by our Workers' Compensation Insurance Policy. If employees are injured on the job, no matter how minor, they should report the incident immediately to their Supervisor. Failure to follow City procedures may affect the ability of the employee to receive Workers Compensation benefits.

Workers Compensation benefits will be administered in accordance with State of New Mexico Worker's Compensation Law.

5-10. Administrative Leave

Administrative Leave

It is recognized that certain events arise that make administrative leave necessary. The Department Director or designee may place an employee on administrative leave with pay based on certain events. These events may include:

- A. The removal of an employee for the safety or welfare of other employees, and/or the public,
- B. The removal of an employee for the purpose of protecting the Cities facilities or properties,
- C. The removal of an employee to conduct an investigation,
- D. The removal of an employee whose conduct or welfare is at issue,
- E. When an employee is referred to the Employee Assistance Program by the supervisor as outlined in the

Employee Assistance section. Employees will be granted a reasonable amount of administrative leave for appointments scheduled during normal work hours.

Employee's in pre-termination status are not eligible for administrative leave with pay. These employee's will be provided administrative leave without pay pending the outcome of their pre-disciplinary process.

The basis for such administrative leave shall be documented and submitted on the approved form to the Human Resources Director at the time of or within two (2) business days of the administrative leave commencing.

Administrative leave under this section shall not constitute corrective action. During the administrative leave, the employee shall not attend his or her regular work site or any other city facilities, except as designated by the Department Director. The employee shall remain available during normal work hours to meet with the Director or designee, as requested.

The employee may be placed on administrative leave with pay by the Director with concurrence from the Human Resources Director for up to five (5) consecutive working days for non-shift workers and seven (7) consecutive calendar days for shift workers. Leave beyond these limitations will only be authorized by the City Manager.

Unauthorized Absence

Any leave not authorized according to the appropriate rules set forth in this manual shall be deemed to be an unauthorized absence without pay. All unauthorized leave shall be initially recorded as unpaid AWOL - absence without leave. Upon receiving information of the reasons behind the unauthorized absence, the Department Director may change the leave to Paid Time Off without losing the right to give the employee corrective action up to and including termination. After one (1) shift or work day of unauthorized absence, employees are subject to termination under the Abandonment section of this manual.

5-11. Bereavement Leave

We know the death of a family member is a time when employees wish to be with their families.

The City shall allow up to three (3) days of paid Bereavement Leave for regular full time employees in cases of death in the immediate family.

The City shall allow up to three (3) days of paid Bereavement Leave for regular part time employees, pro-rated based on the employee's annual budgeted hours, in cases of death in the immediate family.

Employees who must travel 500 miles or more one-way will be allowed two (2) additional days of Bereavement Leave for a maximum total of five (5) days. Bereavement leave benefits for regular part time employees will be pro-rated based on the annual budgeted hours for these two (2) additional days.

For the purposes of this provision, immediate family is defined as: spouse, domestic partner, child, grandchild, brother, sister, parent, grandparent, step, half, and in-law relatives of the same.

Employees must inform their Supervisor prior to commencing bereavement leave.

In administering this policy, the City may require verification of death.

5-12. Jury Duty

City of Alamogordo supports the obligation of all U.S. citizens to serve on a jury when summoned to do so. All employees will be allowed time off to perform such civic service as required by law. Employees are expected to provide a copy of their jury duty and verification of their completed service, available from the court.

Employees are also expected to keep management informed of the expected length of jury duty service and to report to work for the remaining portion of the day if excused by the court.

Employees on jury duty leave will be paid for their jury duty service in accordance with state law; however, exempt employees will be paid their full salary for any week in which time is missed due to jury duty if work is performed for the City during such week.

Some courts pay jurors a fee in exchange for their jury duty. Employees shall remit to the City all compensation received for such service performed during normal working hours. All remitted jury service fees will be turned in to the Finance Department, excluding mileage fees.

5-13. Lactation Breaks

The City will provide a reasonable time to accommodate an employee desiring to express breast milk for the employee's infant child, in accordance with and to the extent required by applicable law.

The City will make reasonable efforts to provide employees with the use of a room or location other than a toilet stall for the employee to express milk in private. This location may be the employee's private office, if applicable. The City may not be able to provide additional break time if doing so would seriously disrupt the City's operations, subject to applicable law. Please consult the Human Resources Department if you have questions regarding this policy.

Employees should advise management if they need break time and an area for this purpose. Employees will not be discriminated against or retaliated against for exercising their rights under this policy.

5-14. Meal Periods/Breaks

Meal periods are usually one (1) hour, unless otherwise specified due to work demands and as pre-authorized by the Department Director. Meal periods are not counted as time worked, unless the employee is not relieved from duty during the meal period. Where meal periods are not taken by the employee and the supervisor has not requested or assigned a verbal or written duty, the employee shall be compensated for time worked, but may be subject to corrective action by their supervisor. Rest breaks may be provided with one (1) fifteen (15) minute rest period the first half of the workday and one (1) fifteen (15) minute rest period the second half of the workday. Rest breaks may not be accumulated, or used in correlation with lunch, at the beginning of work or prior to leaving from work. Breaks will be taken in designated non-work areas, but may not be away from the facility unless the employee has obtained prior supervisor approval or direction. Supervisors shall be responsible for scheduling and may authorize or limit rest breaks if continuous work is required.

5-15. Paid Time Off

The City acknowledges how hard employees work and recognizes the importance of providing time for rest and relaxation. Employees are encouraged to get this rest by taking paid time off.

Leave Defined

Leave is any authorized absence, with or without pay, during regularly scheduled work hours, which is approved by the proper authority. Leave is an employee benefit and all leave shall be earned and granted to employees as set forth in the following rules.

General Leave Approval

Leave will be granted on the basis of the work requirement as a priority, but whenever possible on the personal wishes of the employee. Requests for leave will be approved, denied, and governed through the chain of command.

Paid Time Off (PTO)

Paid Time Off (PTO) is available to cover employees needs for time away from work for vacation, sickness, or to handle personal affairs.

PTO Accrual

Regular full-time employees earn PTO hours based on the multiplier used times the regular hours paid each pay period, excluding overtime and other hours that are in addition to the budgeted base position hours of 2080. The longer an employee remains with the City of Alamogordo, the larger the multiplier will be based on the following table:

Full Years of Service	Maximum PTO Hours Earned Per Year	Maximum PTO Days Earned Per Year	Multiplier
0-5 Years	172	21.50	0.082692308
6 Years	180	22.50	0.086538462
7 Years	188	23.50	0.090384615
8 Years	196	24.50	0.094230769
9 Years	204	25.50	0.098076923
10-15 Years	212	26.50	0.101923077
16 Years	220	27.50	0.105769231
17 Years	228	28.50	0.109615385
18 Years	236	29.50	0.113461538
19 Years	244	30.50	0.117307692
20 Years & Up	252	31.50	0.121153846

The multiplier will be increased to the next incremental rate effective the first full pay-period following the employee's eligible anniversary date.

PTO hours are calculated and updated each biweekly pay period through the payroll system. Employees whose positions are budgeted for 2080 hours per fiscal year may only earn PTO hours up to the maximum per year listed in the calculation table above. Employees may not borrow against future PTO accruals or carry a negative PTO balance.

PTO Requests

It is important that employees plan PTO use carefully so that appropriate replacements can be scheduled. Employees are responsible for requesting PTO in writing and submitting it to their supervisor for approval at least one (1) week in advance for all time off, except in those cases where advance notice is not possible i.e. hospitalization, family emergency, etc, or when otherwise agreed to by the supervisor. In the instance of an unplanned absence, the employee is responsible for making every effort to notify their supervisor at least one (1) hour before the beginning of their scheduled work period. If an employee has not notified the supervisor of their absence by mid shift, the employee may be subject to 4-19 Separation From Employment/Abandonment. Abandonment does not override the PTO request requirement.

If an employee calls in sick for three (3) or more consecutive days, the employee may be required to provide his or her supervisor with a doctor's note on the day the employee returns to work.

An absence shall be considered unauthorized whenever the employee's supervisor or designee has not been properly notified before the shift begins. Responsibility for excusing an unauthorized absence shall rest with the immediate supervisor. An unauthorized absence may be paid if PTO accruals are available and the supervisor has approved the unauthorized absence. An unauthorized absence may be recorded as leave without pay at the discretion of the supervisor.

While employees will begin earning PTO hours upon hire, they are not eligible to use PTO until they have successfully completed their initial probationary or extended probationary period. Employees serving an initial twelve (12) month probationary period shall be eligible to use their PTO hours upon successful completion of the first six (6) months of their probationary period. An exception will be granted and current hours made available if the employee provides documentation of illness signed by a licensed medical professional. Individual circumstances may also be considered and approved by the Department Director.

PTO & Injury on the Job

If an employee is injured on the job during their probationary period they will have access to their available PTO leave balance to cover lost time that they are not compensated for in any other manner for the first seven (7) calendar days. Should the leave balance not be sufficient to cover the time, leave-without-pay may be authorized.

PTO Maximum Roll Over

The maximum amount of earned PTO hours employees can roll over at any fiscal year end is 480 hours. Exceptions may be approved by the City Manager, only under extenuating circumstances which could not be planned or expected. Approved excess leave must be utilized by the employee within ninety (90) days, or by October 31 of the new fiscal year.

Up to July 1, 2003, any employee having a balance in excess of 480 hours will have their current PTO balance serve as their maximum PTO roll over balance until the employee either separates service or their balance falls below 480 hours. At such time their balance falls below 480 hours their maximum limit then becomes 480

hours.

Exhaustion of PTO

Only Department Directors or their designees, on a case-by-case basis, can grant time off without pay. PTO will not accrue during periods of leave without pay.

PTO & Separation of Employment

Employees will be paid up to 480 earned, unused hours of PTO upon their retirement date through PERA. Payment for unused PTO shall be paid at the employee's regular base rate of pay at the time of retirement. PTO in excess of 480 hours will be forfeited.

Employees will be paid up to 360 earned, unused hours of PTO upon separation of employment; not in conjunction with retirement through PERA. Payment for unused PTO shall be paid at the employee's regular base rate of pay at the time of separation. PTO in excess of 360 hours will be forfeited.

All accruals cease as of the date of separation.

PTO will not be paid out to employees who terminate during their first six (6) months of employment status.

PTO Conversion

Employees may convert a maximum of eighty (80) PTO hours per fiscal year for a cash payment at a rate of two (2) hours of pay for three (3) hours of leave. This conversion is only possible for PTO balances over 240 hours. The minimum amount of hours employees may convert per conversion is eight (8) hours. The maximum number of times an employee may convert leave to pay during the fiscal year is four (4). All requests to convert leave to pay must be submitted to the Human Resources Department at least seven (7) calendar days before the pay date the employee wishes to receive the payment.

Voluntary PTO Transfer

There are times when employees may face conditions which require an extended absence from duty and subsequently result in the exhaustion of their PTO. In such cases, after consultation with the Department Director, the City Manager may permit a regular full-time employee to receive PTO donations from other qualified employees under this subsection, under the following conditions:

The employee or an immediate family member suffers from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature which has caused, or is likely to cause, the employee to go on leave without pay status or terminate City employment and:

- The employee's absence and the use of shared PTO are warranted;
- The employee has depleted or will shortly deplete his or her PTO reserves; and
- The employee has abided by all personnel rules regarding PTO use.

PTO donations under this provision may not exceed 480 hours per event, unless otherwise determined by the City Manager or designee.

Such leave shall be donated in one (1) hour increments, with a minimum donation of eight (8) hours per donor.

An employee who has accrued a PTO balance of more than 240 hours may request that the City Manager transfer a specified amount of PTO to another employee authorized to receive PTO under this section. In no event may the employee request a transfer of an amount of PTO that would result in his or her own

PTO balance going below 240 hours. However, an employee separating from City service may donate PTO below the minimum balance of 240 hours, provided the recipient is currently on FMLA leave and/or has been approved by the City Manager to receive PTO donations.

The amount of PTO time transferred under this section which remains unused shall be returned to the employee or employees who transferred the leave when the City Manager finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred. The return of unused PTO will be pro-rated based on the number of hours the donator contributed to the total hours donated under the most recent reconciled balance.

Under no circumstances, including termination, can donated PTO hours be converted to cash.

5-16. Paid Holidays

The City Manager shall determine which holidays employees of the City will observe, and the date of observation.

Regular full-time and part-time employees will be paid for the following holidays:

New Year's Day

Martin Luther King, Jr. Day

President's Day

Memorial Day

Independence Day

Labor Day

Veterans' Day

Thanksgiving Day

Day after Thanksgiving

Christmas Day

Holiday pay for regular part time employees will be calculated based on a pro-rated eight (8) hour holiday and the annual budgeted hours for the position held.

If a holiday falls within an eligible employee's approved leave period the eligible employee will be paid for the holiday. Leave benefits will not be charged.

In the event a holiday falls on Sunday the following Monday shall be deemed to be the holiday. In the event the legal holiday falls on Saturday, the proceeding Friday shall be deemed to be the holiday. In these cases, time worked on the actual holiday on Saturday or Sunday will be the time that is eligible for holiday pay in accordance with the section on Holiday Pay under Compensation.

5-17. Voting Leave

An employee who is registered to vote shall be granted up to two (2) hours with pay, between the opening and closing times of the polls, to vote on all election days. Time off will not be granted to employees whose normal work day begins more than two (2) hours after the opening time of the polls or ends more than three (3) hours prior to the closing time of the polls. Time off for voting will not be utilized for any other purpose.

The employees supervisor should be notified prior to utilizing the Voting Leave. The time of day will be regulated by the supervisor to minimize disruption of service. The employee may be required to produce proof of voter registration.

5-18. Other Benefits

The City may offer other benefits to employees to be paid in whole or part by the employee through a payroll deduction or other means.

City contributions to any benefit are contingent upon available funding and required approvals.

Section 6 - Leaves of Absence

6-1. Personal Leave

If regular full time employees are ineligible for any other City leave of absence, City of Alamogordo, under certain circumstances, may grant a personal leave of absence without pay. A written request for a personal leave should be presented to the Department Director at least two (2) weeks before the anticipated start of the leave. The Department Director will prepare a recommendation to the City Manager, through the Human Resources Department. The recommendation will include the reason for the request, the day it will start and expected day of return, and how it will impact department operations.

If personal leave is requested for medical reasons and employees are not eligible for leave under the federal Family and Medical Leave Act (FMLA) or any state leave law, medical certification also must be submitted. The request will be considered on the basis of staffing requirements and the reasons for the requested leave, as well as performance and attendance records. Normally, personal leave will be granted for a period of up to twelve (12) weeks. However personal leave may be extended if, prior to the end of leave, employees submit a written request for an extension to management and the request is granted.

Employee's that are on approved personal leave:

1. Are not eligible to withdraw their PERA retirement benefits.
2. Will not earn leave benefits, during any duration of leave without pay (LWOP).
3. Are not eligible for holidays that fall during the period of LWOP.
4. Shall not use LWOP to work for another employer or pursue self-employment.
5. Are eligible to continue participation in the City's health insurance program provided the employee makes arrangements to pay the City the full insurance premium if LWOP exceeds two full pay periods.
6. Will be responsible for the employee and employer share of the premiums.
7. Shall be terminated if they fail to return on the day specified, unless an extension has been authorized in advance.
8. Employees must use all accumulated leave and comp-time prior to utilizing LWOP under this provision.
9. Are not eligible to participate in the donated leave provision.

Upon completion of the personal leave of absence, the City will attempt to return employees to their original job or a similar position, subject to prevailing business considerations. Reinstatement, unless FMLA qualified, is not guaranteed.

Failure to advise management of availability to return to work, failure to return to work when notified or a continued absence from work beyond the time approved by the City will be considered a voluntary resignation of employment.

6-2. Military Leave

If employees are required to attend yearly Reserves or National Guard duty, of New Mexico, they will be eligible to receive military leave with pay, not to exceed fifteen (15) days in each calendar year, then unpaid military leave of absence provided the absence does not exceed applicable statutory limitations.

All employees called to active duty in emergencies declared by the Governor of the United States or the President of the United States for short periods of time shall be granted military leave with pay not to exceed fifteen (15) days.

A copy of orders must be attached to all requests for military leave, annual or emergency.

This leave does not apply to assignments volunteered for by the employee.

To be eligible for military leave, employees must provide management with advance notice of service obligations unless they are prevented from providing such notice by military necessity or it is otherwise impossible or unreasonable to provide such notice.

Employees should give management as much advance notice of their need for military leave as possible to ensure proper coverage while employees are away.

Provided any absence does not exceed applicable statutory limitations, employees will retain reemployment rights and accrue seniority and benefits in accordance with applicable federal and state laws.

Authority for all military leave shall be within the provisions of Federal, State, and Local Laws.

6-3. Family and Medical Leave

The Family and Medical Leave Policy

Employees may be entitled to a leave of absence under the Family and Medical Leave Act (FMLA). This policy provides employees information concerning FMLA entitlements and obligations employees may have during such leaves. If employees have any questions concerning FMLA leave, they should contact the Human Resources Office.

I. Eligibility

FMLA leave is available to "eligible employees." To be an "eligible employee," an employee must: 1) have been employed by the City for at least 12 months (which need not be consecutive); 2) have been employed by the City for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave; and 3) be employed at a worksite where 50 or more employees are located within 75 miles of the worksite.

II. Entitlements

As described below, the FMLA provides eligible employees with a right to leave, health insurance benefits and, with some limited exceptions, job restoration.

A. Basic FMLA Leave Entitlement

The FMLA provides eligible employees up to 12 workweeks of unpaid leave for certain family and medical

reasons during a 12-month period. The 12-month period is determined based on a 12-month period measured forward from the start date of the employee's first FMLA leave. Leave may be taken for any one, or for a combination, of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son, daughter or parent (but not in-law) who has a **serious health condition**;
- For the employee's own serious health condition (including any period of incapacity due to pregnancy, prenatal medical care or childbirth) that makes the employee unable to perform one or more of the essential functions of the employee's job; and/or
- Because of any **qualifying exigency** arising out of the fact that an employee's spouse, son, daughter or parent is a military member on covered active duty or called to covered active duty status (or has been notified of an impending call or order to covered active duty) in the Reserves component of the Armed Forces for deployment to a foreign country in support of contingency operation or Regular Armed Forces for deployment to a foreign country.

A **serious health condition** is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, caring for the parents of the military member on covered active duty and attending post-deployment reintegration briefings.

B. Additional Military Family Leave Entitlement (Injured Service Member Leave)

In addition to the basic FMLA leave entitlement discussed above, an eligible employee who is the spouse, son, daughter, parent or next of kin of a **covered service member** is entitled to take up to 26 weeks of leave during a single 12-month period to care for the service member with a serious injury or illness. Leave to care for a service member shall only be available during a single-12 month period and, when combined with other FMLA-qualifying leave, may not exceed 26 weeks during the single 12-month period. The single 12-month period begins on the first day an eligible employee takes leave to care for the injured service member.

A "**covered service member**" is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or is on the temporary retired list, for a serious injury or illness. These individuals are referred to in this policy as "current members of the Armed Forces." **Covered service member** also includes a veteran who is discharged or released from military services under conditions other than dishonorable at any time during the five years preceding the date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness. These individuals are referred to in this policy as "covered veterans."

The FMLA definitions of a "serious injury or illness" for current Armed Forces members and covered veterans are distinct from the FMLA definition of "serious health condition" applicable to FMLA leave to care for a covered family member.

C. Intermittent Leave and Reduced Leave Schedules

FMLA leave usually will be taken for a period of consecutive days, weeks or months. However, employees also are entitled to take FMLA leave intermittently or on a reduced leave schedule when medically necessary due to a serious health condition of the employee or covered family member or the serious injury or illness of a covered service member. Qualifying exigency leave also may be taken on an intermittent basis.

D. No Work While on Leave

The taking of another job while on family/medical leave or any other authorized leave of absence is grounds for immediate discharge, to the extent permitted by law.

E. Protection of Group Health Insurance Benefits

During FMLA leave, eligible employees are entitled to receive group health plan coverage under the same terms and conditions as if they had continued to work.

F. Restoration of Employment and Benefits

At the end of FMLA leave, subject to some exceptions including situations where job restoration of "key employees" will cause the City substantial and grievous economic injury, employees generally have a right to return to the same or equivalent position with equivalent pay, benefits and other employment terms. The City will notify employees if they qualify as "key employees," if it intends to deny reinstatement, and of their rights in such instances. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an eligible employee's FMLA leave.

G. Notice of Eligibility for, and Designation of, FMLA Leave

Employees requesting FMLA leave are entitled to receive written notice from the City telling them whether they are eligible for FMLA leave and, if not eligible, the reasons why they are not eligible. When eligible for FMLA leave, employees are entitled to receive written notice of: 1) their rights and responsibilities in connection with such leave; 2) City's designation of leave as FMLA-qualifying or non-qualifying, and if not FMLA-qualifying, the reasons why; and 3) the amount of leave, if known, that will be counted against the employee's leave entitlement.

The City may retroactively designate leave as FMLA leave with appropriate written notice to employees provided the City's failure to designate leave as FMLA-qualifying at an earlier date did not cause harm or injury to the employee. In all cases where leave qualifies for FMLA protection, the City and employee can mutually agree that leave be retroactively designated as FMLA leave.

III. Employee FMLA Leave Obligations

A. Provide Notice of the Need for Leave

Employees who take FMLA leave must timely notify the City of their need for FMLA leave. The following describes the content and timing of such employee notices.

1. Content of Employee Notice

To trigger FMLA leave protections, employees must inform the Human Resources Office of the need for FMLA-qualifying leave and the anticipated timing and duration of the leave, if known. Employees may do this by either requesting FMLA leave specifically, or explaining the reasons for leave so as to allow the City to determine that the leave is FMLA-qualifying. For example, employees might explain that:

- a medical condition renders them unable to perform the functions of their job;
- they are pregnant or have been hospitalized overnight;
- they or a covered family member are under the continuing care of a health care provider;
- the leave is due to a qualifying exigency caused by a military member being on covered active duty or called to covered active duty status to a foreign country; or
- if the leave is for a family member, that the condition renders the family member unable to perform daily activities or that the family member is a covered service member with a serious injury or illness.

Calling in "sick," without providing the reasons for the needed leave, will not be considered sufficient notice for FMLA leave under this policy. Employees must respond to the City's questions to determine if absences are potentially FMLA-qualifying.

If employees fail to explain the reasons for FMLA leave, the leave may be denied. When employees seek leave due to FMLA-qualifying reasons for which the City has previously provided FMLA-protected leave, they must specifically reference the qualifying reason for the leave or the need for FMLA leave.

2. Timing of Employee Notice

Employees must provide 30 days' advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, or the approximate timing of the need for leave is not foreseeable, employees must provide the City notice of the need for leave as soon as practicable under the facts and circumstances of the particular case. Employees who fail to give 30 days' notice for foreseeable leave without a reasonable excuse for the delay, or otherwise fail to satisfy FMLA notice obligations, may have FMLA leave delayed or denied.

B. Cooperate in the Scheduling of Planned Medical Treatment (Including Accepting Transfers to Alternative Positions) and Intermittent Leave or Reduced Leave Schedules

When planning medical treatment, employees must consult with the City and make a reasonable effort to schedule treatment so as not to unduly disrupt the City's operations, subject to the approval of an employee's health care provider. Employees must consult with the City prior to the scheduling of treatment to work out a treatment schedule that best suits the needs of both the City and the employees, subject to the approval of an employee's health care provider. If employees providing notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglect to fulfill this obligation, the City may require employees to attempt to make such arrangements, subject to the approval of the employee's health care provider.

When employees take intermittent or reduced work schedule leave for foreseeable planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition or to care for a covered service member, the City may temporarily transfer employees, during the period that the intermittent or reduced leave schedules are required, to alternative positions with equivalent pay and benefits for which the employees are qualified and which better accommodate recurring periods of leave.

When employees seek intermittent leave or a reduced leave schedule for reasons unrelated to the planning of medical treatment, upon request, employees must advise the City of the reason why such leave is medically necessary. In such instances, the City and employee shall attempt to work out a leave schedule that meets the employee's needs without unduly disrupting the City's operations, subject to the approval of the employee's health care provider.

C. Submit Medical Certifications Supporting Need for FMLA Leave (Unrelated to Requests for Military Family Leave)

Depending on the nature of FMLA leave sought, employees may be required to submit medical certifications supporting their need for FMLA-qualifying leave. As described below, there generally are three types of FMLA medical certifications: an **initial certification**, a **recertification** and a **return to work/fitness for duty certification**.

It is the employee's responsibility to provide the City with timely, complete and sufficient medical certifications. Whenever the City requests employees to provide FMLA medical certifications, employees must provide the requested certifications within 15 calendar days after the City's request, unless it is not practicable to do so despite an employee's diligent, good faith efforts. The City will inform employees if submitted medical certifications are incomplete or insufficient and provide employees at least seven calendar days to cure deficiencies. The City will deny FMLA leave to employees who fail to timely cure deficiencies or otherwise fail to timely submit requested medical certifications.

With the employee's permission, the City may contact the employee's health care provider to authenticate or clarify completed and sufficient medical certifications. If employees choose not to provide the City with authorization allowing it to clarify or authenticate certifications with health care providers, the City may deny FMLA leave if certifications are unclear.

Whenever the City deems it appropriate to do so, it may waive its right to receive timely, complete and/or sufficient FMLA medical certifications.

1. Initial Medical Certifications

Employees requesting leave because of their own, or a covered relation's, serious health condition, or to care for a covered service member, must supply medical certification supporting the need for such leave from their health care provider or, if applicable, the health care provider of their covered family or service member. If employees provide at least 30 days' notice of medical leave, they should submit the medical certification before leave begins. A new initial medical certification will be required on an annual basis for serious medical conditions lasting beyond a single leave year.

If the City has reason to doubt initial medical certifications, it may require employees to obtain a second opinion at the City's expense. If the opinions of the initial and second health care providers differ, the City may, at its expense, require employees to obtain a third, final and binding certification from a health care provider designated or approved jointly by the City and the employee.

2. Medical Re-certifications

Depending on the circumstances and duration of FMLA leave, the City may require employees to provide recertification of medical conditions giving rise to the need for leave. The City will notify employees if recertification is required and will give employees at least 15 calendar days to provide medical recertification.

3. Return to Work/Fitness for Duty Medical Certifications

Unless notified that providing such certifications is not necessary, employees returning to work from FMLA leaves that were taken because of their own serious health conditions that made them unable to perform their jobs must provide the City with medical certification confirming they are able to return to work and the employees' ability to perform the essential functions of the employees' position, with or without reasonable accommodation. The City may delay and/or deny job restoration until employees provide return to work/fitness for duty certifications.

D. Submit Certifications Supporting Need for Military Family Leave

Upon request, the first time employees seek leave due to qualifying exigencies arising out of the covered active duty or call to covered active duty status of a military member, the City may require employees to provide: 1) a copy of the military member's active duty orders or other documentation issued by the military indicating the military member is on covered active duty or call to covered active duty status and the dates of the military member's covered active duty service; and 2) a certification from the employee setting forth information concerning the nature of the qualifying exigency for which leave is requested. Employees shall provide a copy of new active duty orders or other documentation issued by the military for leaves arising out of qualifying exigencies arising out of a different covered active duty or call to covered active duty status of the same or a different military member.

When leave is taken to care for a covered service member with a serious injury or illness, the City may require employees to obtain certifications completed by an authorized health care provider of the covered service member. In addition, and in accordance with the FMLA regulations, the City may request that the certification submitted by employees set forth additional information provided by the employee and/or the covered service member confirming entitlement to such leave.

E. Substitute Paid Leave for Unpaid FMLA Leave

Employees are required to use any accrued Paid Time Off while taking unpaid FMLA leave.

The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leave and the paid time will run concurrently with an employee's FMLA entitlement.

Leaves of absence taken in connection with a disability leave plan or workers' compensation injury/illness shall run concurrently with any FMLA leave entitlement. Upon written request, the City will allow employee's to use accrued Paid Time Off to supplement any paid disability benefits.

F. Pay Employee's Share of Health Insurance Premiums

During FMLA leave, employees are entitled to continued group health plan coverage under the same conditions as if they had continued to work. Unless the City notifies employees of other arrangements, whenever employees are receiving pay from the City during FMLA leave, the City will deduct the employee portion of the group health plan premium from the employee's paycheck in the same manner as if the employee was actively working.

If FMLA leave is unpaid, employees must pay their portion of the group health premium through a "pay-as-you-go" method.

The City's obligation to maintain health care coverage ceases if an employee's premium payment is more than 30 days late. If an employee's payment is more than 15 days late, the City will send a letter notifying the employee that coverage will be dropped on a specified date unless the co-payment is received before that date. If employees do not return to work within 30 calendar days at the end of the leave period (unless employees cannot return to work because of a serious health condition or other circumstances beyond their control), they will be required to reimburse the City for the cost of the premiums the City paid for maintaining coverage during their unpaid FMLA leave.

IV. Exemption for Highly Compensated Employees

The City may choose not to return highly compensated employees (highest paid 10% of employees at a worksite or within 75 miles of that worksite) to their former or equivalent positions following a leave if restoration of employment will cause substantial economic injury to the City. (This fact-specific determination will be made by the City on a case-by-case basis.) The City will notify employees if they qualify as a "highly

compensated," if the City intends to deny reinstatement, and of an employee's rights in such instances.

V. Questions and/or Complaints about FMLA Leave

If you have questions regarding this FMLA policy, please contact the Human Resources Office. The City is committed to complying with the FMLA and, whenever necessary, shall interpret and apply this policy in a manner consistent with the FMLA.

The FMLA makes it unlawful for employers to: 1) interfere with, restrain or deny the exercise of any right provided under FMLA; or 2) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or involvement in any proceeding under or relating to FMLA. If employees believe their FMLA rights have been violated, they should contact the Human Resources Office immediately. The City will investigate any FMLA complaints and take prompt and appropriate remedial action to address and/or remedy any FMLA violation. Employees also may file FMLA complaints with the United States Department of Labor or may bring private lawsuits alleging FMLA violations.

VI. Coordination of FMLA Leave with Other Leave Policies

The FMLA does not affect any federal, state or local law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement that provides greater family or medical leave rights. For additional information concerning leave entitlements and obligations that might arise when FMLA leave is either not available or exhausted, please consult the City's other leave policies in this manual or contact the Human Resources Office.

The City of Alamogordo administers family and medical leaves of absence in accordance with the Family and Medical Leave Act of 1993.

6-4. Volunteer Emergency Responder Job Protection Act

An employee's rights under the New Mexico Statute Chapter 12, Article 10C-1-4, Volunteer Emergency Responder Job Protection Act will be administered in accordance with the Act.

6-5. The Uniformed Services Employment and Reemployment Rights Act

An employee's rights under The Uniformed Services Employment and Reemployment Rights Act (USERRA) will be administered in accordance with the Act.

6-6. Other Leave

City of Alamogordo recognizes that an employee may have a need to be excused from work in order to attend to personal situations beyond their control. The purpose of this policy is to outline the parameters for Domestic Victims Leave. Under this policy, the following circumstances may be approved for critical personal leaves for employees who are:

- victims of domestic violence
- victims of criminal acts
- victims of natural disasters
- family members of military service members - refer to FMLA Policy under Section 6 of this manual.

All regular full and part time employees, regardless of length of service, are eligible for leave which meet any of the above-referenced criteria. Such approved periods of leaves will be unpaid except where an employee elects to use available paid time off.

The leave provided for in this policy is supplemental to any leave that may be required under applicable laws such as the Family and Medical Leave Act (FMLA) and the Uniformed Services Employment and Reemployment Rights Act (USERRA). You may have similar rights under state law. Employees should look to their leave rights under such laws before resorting to the leave provided for in this policy.

Any request for leave for one of the reasons itemized above must be made in writing, must be for a specified period, and approved by the Department Director.

All leave requests may require documentation supporting the necessity for the leave. Such documentation must be provided within a reasonable time period following the request and may include court, military, insurance, physician, or other documents that verify the need for leave.

The City reserves the right to restrict leave or the duration of a leave if the leave will cause a major impact on City operations.

Domestic Victims leave may be taken in a continuous block of time or sporadically and is limited to fourteen (14) work days in a calendar year; however, employees may submit subsequent documented leave requests for continuation of leave when necessary.

Eligible employees who take leave under this section are entitled to receive group health plan coverage under the same terms and conditions as if they had continued to work and are responsible for ensuring that a benefit payment schedule is arranged with payroll if necessary.

This policy will be administered pursuant to New Mexico Statute 50-4A-1-8, Promoting Financial Independence for Victims of Domestic Abuse Act.

For eligibility requirements contact Human Resources.

Section 7 - General Standards of Conduct

7-1. Drug-Free and Alcohol-Free Workplace

SECTION 1 APPLICABLE TO ALL CITY OF ALAMOGORDO EMPLOYEES

PURPOSE

The purpose of this Policy is to implement a substance abuse and alcohol misuse policy in a manner which provides for a safer environment for all City employees and the public; and, is compliant with Title 49 Code of Federal Regulations Part 382 as it applies to every person and to all employers of such persons who operate a commercial motor vehicle in any State, and is subject to the commercial driver's licensing requirements.

It is intended that this policy will be interpreted and implemented in a manner consistent with anti-discrimination requirements including the Americans with Disabilities Act.

SEVERABILITY

In the event that any portion of this policy or any portion of the regulations it incorporates are declared unenforceable, the remainder of this policy and such regulations shall remain in full effect.

APPLICABILITY

This policy applies to all City of Alamogordo employees and applicants, except where otherwise regulated in Section 2, by the Department of Transportation (D.O.T), for employees holding commercial licenses as part of their job description or are being paid certification pay for a commercial license that is not a requirement of their job description, but is found to be beneficial to the City.

It shall be the responsibility of the City Manager to determine which positions are safety-sensitive.

Safety sensitive positions for the purpose of this policy are: sworn and non-sworn Police, Dispatch, Dispatch Command Staff, Animal Control Manager, Animal Control Officer, Evidence Technician, Firefighter, Fire Lieutenant, Fire Command Staff, Code Enforcement Officer, Code Enforcement Supervisor, Recreation Center Van Driver, Senior Center Van Driver, Lifeguard, and those positions regulated by D.O.T. for the operation of a commercial vehicle.

It shall be the responsibility of the Human Resources Office to notify the affected employees of their status upon hire or in the event of a change in safety sensitive determinations.

PROHIBITIONS

1. Employees are prohibited from reporting to work under the influence of alcohol or controlled substance(s), from consuming, or possessing illegal drugs or alcohol during assigned work hours including lunch periods, rest breaks and periods when the employee is in pay status or on call.
2. No employee shall consume alcohol within the eight (8) hours prior to the start of the employee's scheduled shift.

A. DRUG TESTING

The City of Alamogordo and its contracted testing facility shall adhere to the D.O.T. guidelines for drug

testing. Split urine specimens collected under this policy shall not be used to test for any other drugs than Marijuana, Cocaine, Opiates, Phencyclidine, or Amphetamines.

Any drug testing component utilized by the City of Alamogordo shall have professionally trained collection personnel, quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

B. PRIVACY ASSURED

Any individual subject to testing under this policy, shall provide urine specimens in privacy unless there is a reason to believe that a particular individual may alter or substitute the sample.

A collection site staff member of the same gender as the individual tested, may observe the individual provide the urine specimen when such staff member has a reasonable suspicion to believe that the individual may attempt to alter or substitute. If the collection provider does not have a same gender individual available, the City will provide an observer whom shall be a member of City Management. The following are grounds for an observed test under this section:

1. The employee has presented a urine specimen that falls outside of the normal temperature range 32⁰ - 38⁰ C or 90⁰ - 100⁰ F; and
2. The employee declines to provide an oral body temperature; or
3. The oral body temperature varies by more than 1⁰ C/ 1.8⁰ F from the specimen temperature; or
4. The last urine specimen provided by the employee (on a previous occasion) was determined by the testing lab to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L;
5. The collection site personnel observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g. substitute urine in plain view, blue dye in specimen presented, etc.); or
6. The employee has previously been determined to have used a controlled substance without medical authorization.

C. BREATH ALCOHOL TEST

1. The City of Alamogordo's contracted testing facility will adhere to breath alcohol procedures of Title 49 Code of Federal Regulations Part 40.
2. Breath alcohol shall be collected by a certified Breath Alcohol Technician utilizing a Department of Transportation approved Evidentiary Breath Testing machine.
3. The employee giving the sample shall complete step 2 of the certification on the Alcohol Testing Form.
4. Refusal by the member to sign the certification shall be regarded as a refusal to take the test and will be automatically considered a positive result and will result in corrective action up to and including termination.
5. If the screening test is greater than zero (0) the driver shall take a confirmation test.
6. The confirmation test shall be conducted within not less than 15 minutes and no more than 30 minutes of a positive screening test.

D. PRE-EMPLOYMENT TESTING

All offers to an external applicant, for initial employment with the City of Alamogordo, shall be extended conditionally upon the applicant successfully passing a pre-employment drug test with a negative result.

1. A current full-time or part-time non-safety sensitive employee that is being placed, transferred, or

promoted into a non-safety sensitive position is exempt from the pre-employment drug test provision.

2. A current full-time or part-time non-safety sensitive employee being placed, transferred, or promoted into a safety-sensitive position is subject to the appropriate pre-employment drug test with a negative result.
3. A current full-time or part-time safety sensitive employee that is being placed, transferred, or promoted into another safety-sensitive position is exempt from the pre-employment drug test provision.
4. A current full time or part time non D.O.T. Safety Sensitive employee being, placed, transferred, or promoted into a D.O.T. Safety Sensitive position is subject to the appropriate pre-employment drug test, as regulated by D.O.T., with a verified negative result.
5. A current full time or part time D.O.T. Safety Sensitive employee being placed, transferred, or promoted into another D.O.T. Safety Sensitive position is exempt from the pre-employment drug test provision.
6. Seasonal employees promoting to regular status will be tested pursuant to the guidelines described in 1-5 above.

Procedure:

1. The City of Alamogordo shall direct the applicant or employee to an appropriate collection facility with the designated form.
2. The drug test must be undertaken as soon after notification as possible.
3. When an employee being placed, transferred or promoted submits to a drug test under any of these provisions and has a verified positive result, the employee shall be subject to corrective action up to and including termination.
4. Should an applicant have a pre-employment drug test with a positive result, the conditional offer of employment shall be rescinded.

E. RANDOM TESTING

All employees designated as "Safety Sensitive" per the "Applicability", Section are subject to random drug and alcohol testing.

Procedure:

1. Tests are unannounced and the City of Alamogordo will notify the employee of any selection for a random test just prior to testing.
2. The employee shall immediately present him or herself for testing at the designated collection location noted on the random selection notice form.
3. Any employee not reporting for testing immediately shall be deemed to have refused to test, and shall be subject to corrective action up to and including termination.

Employees on shift work will present themselves for testing upon notification from their supervisor.

F. RANDOM SELECTION

The following represents how and how often random selections occur:

1. The rate of selection is 50% per anum for drugs and 25% per anum for alcohol. These rates may be adjusted by the Department of Transportation guidelines;

2. The selections are done by a scientifically valid process through the facility contracted to perform drug and alcohol tests.

G. POST-ACCIDENT TESTING

All employees are subject to post-accident drug and/or alcohol testing. All employees are required to report accidents immediately. Reporting procedures for accidents are defined in the City's Safety Manual, Section VII.

Employees involved in on-the-job accidents are subject to testing.

1. SAFETY SENSITIVE AND NON-SAFETY SENSITIVE POSITIONS:

- Testing will be conducted immediately following the accident if information is provided by credible sources, or it is reasonable and independently corroborated that objective facts indicate the driver is under the influence of controlled substance or alcohol.
- Police involved in an accident who use deadly force are subject to drug and alcohol testing. Deadly force means, that force which a reasonable person would consider likely to cause death or serious bodily harm.

2. DEPARTMENT OF TRANSPORTATION (D.O.T) REGULATED EMPLOYEES:

Testing for both alcohol and drugs shall be conducted for each surviving driver:

- If the accident involved the loss of human life;
- Who receives a citation under State or local law for a moving traffic violation arising from the accident;
- Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident;
- One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

All D.O.T employees requiring post-accident testing will report for testing within two (2) hours of the accident and shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing.

Procedure:

1. If test(s) are not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
2. If a test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare and maintain the same record.
3. The results of breath or blood test for the use of alcohol by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of post-accident testing, provided the tests conform with the applicable Federal, State, or local alcohol testing requirements, and that the results are obtained by the City of Alamogordo.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

H. REASONABLE SUSPICION TESTING

Reasonable suspicion testing may be based upon, among other things:

1. Observable phenomena, such as direct observation of drug and/or alcohol use or possession and/or the physical symptoms of being under the influence of drug(s) and/or alcohol, or a pattern of abnormal conduct or erratic behavior.
2. Abnormal conduct or erratic behavior may include the following, which is not intended to be all inclusive:
 - Abnormally dilated or constricted pupils
 - Glazed stare-redness of eyes
 - Flushed face
 - Change of speech (ie. faster or slower)
 - Constant Sniffing
 - Redness under nose
 - Needle marks
 - Change in personality
 - Forgetfulness
 - Constant fatigue or hyperactivity
 - Smell of alcohol
 - Slurred speech
 - Difficulty walking
 - Slowed reaction rate
 - Dulled mental processes
3. Information provided by credible sources or independently corroborated;
4. Newly discovered evidence that the driver has tampered with a previous drug and/or alcohol test.

Procedures:

1. If an employee is suspected of using illegal drugs, the appropriate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion.
2. The employee shall be driven to an approved collection site and the appropriate reasonable suspicion drug and/or alcohol test shall be administered.
3. The employee will be placed on Administrative Leave and taken home or may be picked up by a responsible friend or family member.
4. The Director and Human Resources will be notified immediately.
5. The appropriate supervisor will promptly prepare a written report detailing the circumstances which formed the basis to warrant the testing on the City's designated form.
6. This report should include the appropriate dates and times of reported drug/alcohol related incidents, names of credible sources of information, rationale leading to the test, and the action taken.
7. Completed forms will be submitted to Human Resources for proper filing.

Reasonable suspicion testing does not require certainty, however, mere "hunches" are not sufficient to meet the standard for testing.

I. REFUSAL TO TEST

1. Refusal by the employee to take any required test(s) shall be considered an automatic positive test result and will be grounds for corrective action up to and including termination.
2. Any employee who refuses to be tested when so required will be subject to removal from any safety sensitive function and will be subject to corrective action, up to and including termination.

Refusal to test and incomplete tests are:

Alcohol:

1. Fails to present him or herself for testing, within the designated time frame, after he or she has received notice that testing is occurring;
 2. Employee fails to complete and sign the breath alcohol testing form;
 3. Fails to provide breath, or to provide an adequate amount of breath; or
 4. Fails to otherwise cooperate with the testing process.
- If there is an inability for the driver to provide an adequate amount of breath the driver shall be directed by the City of Alamogordo, if required to, obtain, and as soon as practical, an evaluation from a licensed physician why the employee could not deliver an adequate sample.
 - If the licensed physician is unable to conclude that a high degree of probability existed that a medical problem resulted in the inadequate sample, the test is considered as a refusal and automatically considered a positive test and will result in corrective action up to and including termination.
 - If the driver refuses to take a confirmation test he or she shall not operate a motor vehicle or perform any safety sensitive function and will be subject to corrective action up to and including termination.

Controlled Substance Urine Sample:

1. Fails to provide an adequate urine sample without a genuine inability to provide a specimen after he or she has received notice of the requirement for urine testing;
2. Fails to present him or herself for testing, within the designated time frame, after he or she has received notice that testing is occurring;
3. Engages in conduct that clearly obstructs the testing process; or
4. The employee has presented a urine specimen that falls outside the normal temperature range of 32⁰ - 38⁰ C or 90⁰ - 100⁰ F; and
5. The employee declines to provide an oral body temperature.

Consequences of Refusing to Test:

Refusals to test are treated as if they were a positive test result for either alcohol or controlled substances and will subject the employee to corrective action up to and including termination.

J. TEST RESULTS

Should an employee receive a positive or non-negative drug or alcohol result:

1. Under no circumstance will the employee be allowed to drive.
2. The Director and Human Resources will be notified immediately.
3. A valid prescription may be the cause, and if documentation can be provided, the employee may return to duty, if there is no sign of impairment until the confirmation result is in.
4. If documentation of a valid prescription cannot be provided the employee will be placed on Administrative Leave pending the result of the confirmation test.
5. The employee shall be subject to corrective action up to and including termination.

Opportunity to Justify a Positive Drug or Non-Negative Test Result:

When a drug test result has been returned by the laboratory to the Medical Review Officer (MRO), he or she shall perform their duties. For example, the Medical Review Officer may choose to conduct employee medical interviews, review employee medical history, or review any other relevant biomedical factors. The Medical Review Officer must review all non-negative and positive results.

Evidence to justify a positive result may include, but is not limited to:

1. A valid prescription; or
2. A verification from the individual's physician verifying a valid prescription.

Individuals are not entitled, however, to present evidence in a trial-type administrative proceeding, although the Medical Review Officer has the discretion to accept evidence in any manner that they deem most efficient or necessary. If the Medical Review Officer determines there is not justification for the positive result, such result will be considered a verified positive test result. The Medical Review Officer shall immediately contact the appropriate official upon obtaining a verified positive test result.

K. LEGAL MEDICATION USE

1. Any employee in a safety sensitive position who is taking prescribed, non-prescribed, and/or over the counter medication containing alcohol for illness or injury must report the use of these substances to his or her employer.
2. It is the responsibility of the employee to determine the effects of these medications and/or drugs on job performance and safety. Generally the effects would be considered substantial enough to warrant removal from job duties if the container states that driving should not be done after taking the medication, or drowsiness occurs after taking the medication.
3. In the event that these medications adversely affect performance or safety to the extent that the employee must be relieved from duty no disciplinary action will be taken against the employee. He or she may be required to take Paid Time Off, leave without pay, or be placed in a less sensitive position if available.
4. No prescription drugs shall be brought into the work place by any person other than the person for whom the drug is prescribed by a licensed medical practitioner and shall be used only in the manner, combination, and quantity prescribed.

L. VOLUNTARY ASSISTANCE (SELF REFERRAL)

The City encourages employees who believe or suspect that they may be abusing a substance to voluntarily refer themselves to the Employee Assistance Program (EAP). The EAP staff is prepared to assist employees requesting their services. Employees may self-refer at any time except within twenty-four (24) hours after an accident, as defined in this policy, or after being notified that they must submit to a random or reasonable suspicion drug/alcohol test. Except as otherwise provided in this policy, an employee's use of the EAP services shall remain confidential.

As a part of its efforts to promote employee wellness, the City maintains an Employee Assistance Program (EAP) and encourages employees to voluntarily seek assistance regarding substance abuse. However, because employees who are substance abusers do not always avail themselves of this program, the City, as a responsible employer, elects to take additional steps to deter substance abuse which may impact the workplace.

1. Any employee who self-refers shall be placed on the appropriate leave status. Employees who voluntarily seek assistance for substance abuse may receive, without charge, an evaluation with a Substance Abuse Professional (SAP) through the City of Alamogordo EAP. Recommendations from the SAP will be met, at the employees own expense. Employee will remain on leave status until the Substance Abuse Professional documents that he or she is ready and able to return to assigned job duties without endangering the safety of themselves or others; the employee has completed a return-to-duty drug and/or alcohol test with a negative result; and the City has been provided with a return-to-work agreement.
2. The return-to-work agreement shall require that the employee remain compliant with his or her treatment program and non-compliance is grounds for corrective action up to and including termination. In addition, the return-to-work agreement shall include an agreement to submit to periodic and unannounced follow-up testing which must consist of at least six (6) tests during the first twelve (12) months following the return-to-work and may be done for up to sixty (60) months; and a standard, limited waiver of confidentiality, with respect to compliance with the treatment program only, to allow the Human Resources Office or designee to monitor compliance with the program.
3. During treatment, the employee's leave status shall be as follows: First, accrued leave shall be exhausted and, if insufficient, the employee shall be placed on leave without pay in accordance with the City of Alamogordo Employee Manual. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.
4. Employees who are not compliant with the SAP recommended treatment program within thirty (30) calendar days from the date of self-referral shall be subject to corrective action up to and including termination.
5. Referrals to a Substance Abuse Professional play an important role in preventing and resolving employee drug use or alcohol abuse by providing employees an opportunity to discontinue their use.
6. All Substance Abuse Professional operations shall be confidential in accordance with this policy relating to records and confidentiality.

M. RETURN TO DUTY TESTING

The City of Alamogordo shall ensure that an employee returning to duty after testing positive for alcohol has undergone a return to duty test with a verified negative result.

For any substance, the employee returning to duty shall have undergone a controlled substance test with a verified negative result.

The requirements for return-to-duty testing will be performed as outlined in 49 CFR part 40, subpart O.

At the discretion of the City Manager, an employee may return to duty in a safety sensitive position when the employee has been referred to a Substance Abuse Professional and the employee has provided the City with an appropriate return to duty release from the Substance Abuse Professional.

N. FOLLOW UP TESTING

All employees referred through administrative channels who undergo a counseling or rehabilitation program for drug/alcohol use through a Substance Abuse Professional will be subject to unannounced testing following completion of such a program, recommended by the Substance Abuse Professional.

Employees who refuse to submit to periodic, unannounced follow-up testing administered pursuant to a return-to-work agreement shall be subject to corrective action up to and including termination.

An employee with a verified positive test during the follow-up testing administered pursuant to a return-to-work agreement shall be subject to corrective action up to and including termination.

Follow-up testing is separate and in addition to any other testing required by other provisions of the City's Drug and Alcohol Abuse Policy. Appropriate discipline shall be imposed for verified positive tests under those provisions without regard to an employee's participation in the self-referral program.

O. EDUCATION AND TRAINING

This policy shall be provided to every City employee, and training and education programs shall be made available. Supervisors and Managers will receive a minimum of 120 minutes each of drug and alcohol specialized training designed to promote the necessary skills to:

- Inform employees of this policy;
- Enforce this policy;
- Identify the signs of drug and/or alcohol use; and
- Integrate an employee effectively back into his or her work group following treatment.

Non-supervisory employees will receive a minimum of 120 minutes training on the effects and consequences of prohibited drug and/or alcohol use on personal health, safety, and the work environment.

P. OTHER REQUIREMENTS

Department Directors or other Supervisors may not adopt additional substance abuse and/or testing policies without the prior written approval of the City Manager.

All City of Alamogordo employees have the duty and are required to report to their supervisor any suspected drug or alcohol use of another employee while on duty. Failure to do so may result in corrective action.

SECTION 2 APPLICABLE TO DEPARTMENT OF TRANSPORTATION (DOT) REGULATED EMPLOYEES ONLY

City of Alamogordo complies with Title 49 Code of Federal Regulations Part 382 relating to the Department of Transportation regulations for employees operating on the City's behalf as a commercial driver.

Title 49 Code of Federal Regulations Part 382

382.601(b) (1): Contact the Human Resources Office at (575) 439-4399 for any questions relating to the City of Alamogordo Drug and Alcohol Abuse Policy.

382.601(b)(2): The operation of the following categories of Commercial Motor Vehicles (CMV) by a Commercial Driver Licensed driver subjects the Commercial Driver Licensed driver to the provisions of Title 49 Code of Federal Regulations Part 382:

A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1. Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit a gross vehicle weight rating of 10,000 pounds; or
2. Has a gross vehicle weight rating of 26,001 or more pounds; or
3. Is designed to transport 16 or more passengers, including the driver; or
4. Is any size and is used to transport hazardous material(s) requiring the motor vehicle to be placarded.

382.601(b) (3): The following are the Safety Sensitive functions that place drivers into the provisions of the Department of Transportation's Drug & Alcohol testing requirements:

1. All time that a carrier or shipper plant, terminal, facility, or other property, or on any public property waiting to be dispatched, unless the driver has been relieved from duty by the City of Alamogordo;
2. All time inspecting equipment as required or otherwise inspecting, servicing, or conditioning commercial motor vehicle at any time. All driving time which means all time spent at the driving controls of a commercial motor vehicle during operation;
3. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
4. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
5. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

The following constitutes a verified positive controlled substance test result:

<u>SUBSTANCE</u>	<u>CONFIRMATORY TEST CUT OFF LEVELS (ng/ml)</u>
Marijuana	15
Cocaine	150
Opiates:	
Morphine	300
Codeine	300
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine	500

382.601 (b) 10: The following are consequences for drivers found to have an alcohol concentration greater than zero (0)%:

Levels of alcohol concentration over zero (0)% require an employee to be relieved of safety sensitive functions. The driver is then subject to the full range of disciplinary action, including termination.

382.601 (b) 11: The following is information concerning the effects of alcohol and controlled substances.

ALCOHOL

Although used routinely as beverage for enjoyment, alcohol can also have negative physical and mood-altering effects when abused. These physical or mental alterations in a driver may have serious personal and public safety risks.

HEALTH EFFECTS

An average of three or more servings per day of beer (12 oz.) Whiskey (1 oz.) or wine (6 oz.) over time, may result in the following health hazards:

- Dependency
- Fatal liver disease
- Kidney disease
- Pancreatitis
- Ulcers
- Decreased sexual functions
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- birth defects such as Fetal Alcohol Syndrome.

Social Issues

- 2/3 of all homicides are committed by people who drink prior to the crime.
- 2-3% of the driving population are legally drunk at any one time. This rate doubles at night and on

weekends.

- 2/3 of all Americans will be involved in an alcohol-related accident during their lifetime.
- The separation and divorce rate in families with alcohol dependency problems is seven (7) times the average.
- 40% of family court cases are alcohol-related.
- Alcoholics are 15 times more likely to commit suicide.
- More than 60% of burns, 40% of falls, 69% of boating accidents, and 76% of private aircraft accidents are alcohol related.
- Over 17,000 fatalities occurred in 1993 in highway accidents, which were alcohol-related. This was 43% of all highway fatalities.
- 30,000 people will die each year due to alcohol caused liver disease.
- 10,000 people will die each year due to alcohol-related brain disease or suicide.
- Up to 125,000 people die each year due to alcohol-related conditions or accidents.

Workplace Issues

- It takes one hour for the average person (150 pounds) to process one serving of alcohol from the body.
- Impairment can be measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

Reporting Legal Drug Use

The reporting requirements which arise under Title 49 Code of Federal regulations Parts 40 and 382 are an element of this policy. To the extent such reporting requirements hinge on operations in interstate, or intrastate, commerce or application of United States Department of Transportation regulations or require reporting to Federal agencies, such reporting requirements will be implemented to the degree to which they apply.

The City of Alamogordo utilizes a Third Party Administrator (TPA) to data base employee drug/alcohol testing information, conduct random drug/alcohol selections, and receive testing results. The TPA acts as an agent for the employer. It does not replace the employer or responsibilities for meeting the Department of Transportation requirements.

1. Drug/alcohol testing records are first received by the Third Party Administrator of the City's drug and alcohol program. The results are transmitted to the Human Resources Department who shall maintain them and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express consent of the tested employee.
2. Records of a verified positive drug/alcohol test result shall be released to the employee's Department Director.
3. Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test.

Failure to do so may result in disciplinary actions.

Alcohol's Trip Through the Body

Mouth and Esophagus: Alcohol is an irritant to the delicate linings of the throat and food pipe. It burns as it

goes down.

Stomach and Intestines: Alcohol has an irritating effect on the stomach's protective lining, resulting in gastric or duodenal ulcers. This condition, if it becomes acute, can cause peritonitis, or perforation of the stomach wall. In the small intestine, alcohol blocks absorption of such substances as thiamine, folic acid, fat, vitamin B1, vitamin B12, and amino acids.

Bloodstream: 95% of the alcohol taken into the body is absorbed into the bloodstream through the lining of the stomach and duodenum. Once in the bloodstream, alcohol quickly goes to every cell and tissue in the body. Alcohol causes red blood cells to clump together in sticky wads, slowing circulation and depriving tissues of oxygen. It also causes anemia by reduction of red blood cell production. Alcohol slows the ability of white cells to engulf and destroy bacteria and degenerates the clotting ability of blood platelets.

Pancreas: Alcohol irritates the cells of the pancreas, causing them to swell, thus blocking the flow of digestive enzymes. The chemicals, unable to enter the small intestine, begin to digest the pancreas, leading to acute hemorrhagic pancreatitis. One out of five patients who develop this disease dies during the first attack. Pancreatitis can destroy the pancreas and cause a lack of insulin thus resulting in diabetes.

Liver: Alcohol inflames the cells of the liver, causing them to swell and block the tiny canal to the small intestines. This prevents bile from being filtered properly through the liver. Jaundice develops, turning the whites of the eyes and skin yellow. Each drink of alcohol increases the number of live cells destroyed, eventually causing cirrhosis of the liver. This disease is eight times more frequent among alcoholics than among non-alcoholics.

Heart: Alcohol causes inflammation of the heart muscle. It has a toxic effect on the heart and causes increased amounts of fat to collect, thus disrupting its normal metabolism.

Urinary Bladder and Kidneys: Alcohol inflames the lining of the urinary bladder making it unable to stretch properly. In the kidneys, alcohol causes increased loss of fluids through its irritating effect.

Sex Glands: Swelling of the prostate gland caused by alcohol interferes with the ability of the male to perform sexually. It also interferes with the ability to climax during intercourse.

Brain: The most dramatic and noticed effect of alcohol is on the brain. It depresses brain centers, producing progressive incoordination: confusion, distortion, stupor, anesthesia, coma, death. Alcohol kills brain cells and brain damage is permanent. Drinking over a period of time causes loss of memory, judgement and learning ability.

DRUGS

Marijuana

Health Effects

- Emphysema-like conditions.
- One joint of marijuana contains cancer-causing substances equal to ½ pack of cigarettes.
- One joint causes the heart to race and be overworked. People with heart conditions are at risk.
- Marijuana is commonly contaminated with the fungus *Aspergillus*, which can cause serious respiratory tract and sinus infections.
- Marijuana lowers the body's immune system response, making users more susceptible to infections. Chronic smoking causes changes in brain cells and brain waves. The brain does not work as efficiently or effectively. Long-term brain damage may occur.
- Tetrahydrocannabinol (THC) and sixty (60) other chemicals in marijuana concentrate in the ovaries and

testes.

- Chronic smoking of marijuana in males causes a decrease in testosterone and an increase in estrogen, the female hormone. As a result, the sperm count is reduced, leading to a temporary sterility.
- Chronic smoking of marijuana in females causes a decrease in fertility.
- A higher than normal incidence of stillborn births, early termination of pregnancy, and higher infant mortality rate during the first few days of life are common in pregnant marijuana smokers.
- THC causes birth defects including brain damage, spinal cord, forelimbs, liver, and water on the brain and spine in test animals.
- Prenatal exposure may cause underweight newborn babies.
- Fetal exposure may decrease visual functioning.
- User's mental function can display the following effects:

1. delayed decision making
2. diminished concentration
3. impaired short-term memory
4. impaired signal detection
5. impaired tracking
6. erratic cognitive function
7. distortion of time estimation

Workplace Issues

- THC is stored in body fat and slowly released.
- Marijuana smoking has long-term effects on performance.
- Increased THC potency in modern marijuana dramatically compounds the side effects.
- Combining alcohol or other depressant drugs with marijuana increase the impairing effects.

Cocaine

Used medically as a local anesthetic. When abused, it becomes a powerful physical and mental stimulant. The entire nervous system is energized. Muscles tense, heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

Health Effects

- Regular use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing damage to critical nerve cells. Parkinson's Disease could also occur.
- Cocaine causes the heart to beat faster, harder, and rapidly increases blood pressure. It also causes spasms of blood vessels in the brain and heart. Both lead to ruptured vessels causing strokes and heart attacks.
- Strong dependency can occur with one "hit" of cocaine. Usually mental dependency occurs within days for "crack" or within several months for snorting coke. Cocaine causes the strongest mental dependency of all the drugs.
- Treatment success rates are lower than other chemical dependencies.

- Extremely dangerous when taken with other depressant drugs. Death due to overdose is rapid. Fatal effects are usually reversible by medical intervention.

Workplace Issues

- Extreme mood and energy swings create instability. Sudden noise causes a violent reaction.
- Lapses in attention and ignoring warning signals increases probability of accidents.
- High cost frequently leads to theft and/or dealing.
- Paranoia and withdrawal may create unpredictable or violent behavior.
- Performance is characterized by forgetfulness, absenteeism, tardiness, and missing assignments.

Opiates

- Narcotic drugs which alleviate pain and depress body functions and reactions.

Health Effects

- IV needle users have a high risk of contracting hepatitis or AIDS when sharing needles.
- Increase pain tolerance. As a result, a person may more severely injure themselves and fail to seek medical attention as needed.
- Narcotic effects are multiplied when combined with other depressants causing an increased risk for an overdose.
- With increased tolerance and dependency combined, there is a serious financial burden for users.

Workplace Issues

- Side effects such as nausea, vomiting, dizziness, mental clouding and drowsiness place the user at high risk for an accident.
- Causes impairment of physical and mental functions.

Amphetamines

- Central nervous system stimulant that speeds up the mind and body.

Health Effects

- Regular use causes strong psychological dependency and increased tolerance.
- High doses may cause toxic psychosis resembling schizophrenia.
- Intoxication may induce a heart attack or stroke due to increased blood pressure.
- Chronic use may cause heart or brain damage due to severed constriction of capillary blood vessels.
- Euphoric stimulation increases impulsive and risk taking behavior, including bizarre and violent acts.
- Withdrawal may result in severe physical and mental depression.

Workplace Issues

- Since the drug alleviates the sensation of fatigue, it may be abused to increase alertness during periods of overtime or failure to get rest.
- With heavy use or increasing fatigue, the short-term mental or physical enhancement reverses and becomes an impairment.

Phencyclidine (PCP)

- Often used as a large animal tranquilizer. Abused primarily for its mood altering effects. Low doses produce sedation and euphoric mood changes. Mood can rapidly change from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare. Sudden noises or physical shocks may cause a "freak out" in which the person has abnormal strength, violent behavior, and an inability to speak or comprehend.

Health Effects

- The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with anesthetic effect on the body.
- PCP, when combined with other depressants, including alcohol, increases the possibility of an overdose.
- If misdiagnosed as LSD induced, and treating with Thorazine, can be fatal.
- Irreversible memory loss, personality changes, and thought disorders may result.

Workplace Issues

- Not common in the workplace primarily because of the severe disorientation that occurs.
- There are five (5) phases to PCP abuse:
 1. Acute toxicity causing combativeness, catatonia, convulsions, and coma.
 2. Distortions of size, shape, and distorted perception are common.
 3. Toxic psychosis with visual and auditory delusions, paranoia and agitation.
 4. Drug induced schizophrenia.
 5. Induced depression which may create suicidal tendencies and mental dysfunction.

382.605 Referral, evaluation and treatment.

Each driver who has engaged in conduct prohibited by Title 49 Code of Federal Regulations Part 382. sub-part B shall be advised by the employer of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances.

382.413 Release of Alcohol and Controlled Substance Test Information By Previous Employers:

The City shall, pursuant to a driver's written authorization, inquire about information on the driver's alcohol tests with a result of 0.04 or greater, positive controlled substance test results, and refusals to be tested within the preceding two years of employment application, which are maintained by the driver's previous employers.

If feasible this information must be obtained and reviewed by the City prior to the first time a driver performs a

safety sensitive function. If it is not feasible to obtain the information prior to the driver performing a safety sensitive function the City has 14 calendar days to obtain and review this information. The City may not permit a driver to perform safety sensitive functions after 14 calendar days without having made a good faith effort to obtain the information as soon as possible.

If the driver stops performing safety sensitive functions for the City before the 14 calendar days expires, or before the information is obtained, the City must still make a good faith effort to obtain the information.

382.601 (b) 11 (d): Certificate of Receipt:

Drug/Alcohol educational material packets shall be distributed to covered employees. A minimum of two hours of supervisory training shall be required of all supervisors. Employees and supervisors are required to sign for the materials. A copy showing receipt shall be maintained by the City of Alamogordo, or the Third Party Administrator, as part of the employee's confidential drug and alcohol file.

Pursuant to Title 49 Code of Federal Regulations Part 382, sub-part B you are advised by the City of Alamogordo of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and/or the use of controlled substances. You may not return to any "Safety Sensitive" position within the City of Alamogordo until such time as you have completed, or been released, by an approved Substance Abuse Program that contains: referral, evaluation, and treatment.

A non-inclusive assistance resource listing:

- Zia Therapy / 900 First St., Alamogordo, NM 88310 / 575-439-4900
- Behavioral Health Services Division / 37 Plaza La Prensa, Sante Fe, NM 87507 / 505-827-2601
- Substance Abuse and Mental Health Services Administration (SAMHSA) 877-SAMHSA-7 or 877-726-4727
- National Institute for Drug Abuse (NIH) www.drugabuse.gov / 301-496-4000
- Cocaine Helpline / 800-COCAINE or 800-262-2463
- New Mexico Alcoholics Anonymous / 1405 San Mateo Blvd., NE Albq., NM / 505-266-3688
- New Mexico Alcoholics Anonymous / 1921 Alvarado Dr. NE, Albq., NM / 505-266-1900
- New Mexico Alcoholics Anonymous / 2411 4th St., Albq., NM / 505-243-8426
- New Mexico Alcoholics Anonymous / 11605 Menaul Blvd., NE, Albq., / 505-292-1067
- National Institute on Alcohol Abuse and Alcoholism / niaaa.nih.gov / 888-MY-NIAAA or 888-696-4222
- Dr. Mary Ann Cotton (EAP) / 820 Scenic Dr. #B, Alamogordo, NM / 575-439-1550
- LaRocque Counseling Assoc., LLC (EAP) / 1213 Michigan Ave. Alamogordo, NM / 575-437-8942

Employee Signature of Receipt

Date of Receipt

City of Alamogordo

Original: Employee Confidential Auxiliary File

Copy: Employee

Code of Ethics: Public Employment as a Public Trust.

City employees in performing their duties are required to conduct themselves in an ethical manner at all times. In performing their day-to-day duties and in their many contacts with residents and visitors, City employees should be aware that the impressions of City government are based upon their manner, appearance, speech, and conduct. Consequently, City government is dependent upon standards of reliability, integrity, industriousness, helpfulness, courtesy, efficiency, patience, grooming, dress, and language that are appropriate to the work situation and acceptable to the majority of the community. A public employee away from the job shall have the same rights as any other private citizen insofar as they do not interfere with their performance on the job or undermine the public confidence in the City, the employee, or another City employee.

Conflict of Interest

It is City of Alamogordo's policy that all employees avoid any conflict between their personal interests and those of the City. The purpose of this policy is to ensure that the City's honesty and integrity, and therefore its reputation, are not compromised. The fundamental principle guiding this policy is that no employee should have, or appear to have, personal interests or relationships that actually or potentially conflict with the best interests of the City.

It is not possible to give an exhaustive list of situations that might involve violations of this policy. However, the situations that would constitute a conflict of interest in most cases include but are not limited to:

1. Holding an interest in or accepting free or discounted goods or services from any organization, or citizen that does, or is seeking to do, business with the City, or has interests that may be substantially affected by the performance or non performance of the employee's official duties;
2. Being employed by (including as a consultant) or serving on the board of any organization which does, or is seeking to do business with the City, or has interests that may be substantially affected by the performance or non performance of the employee's official duties;
3. Profiting personally through commissions, loans, grants, expense reimbursements, honorarium, contribution or other payments, from any organization or citizen that does, or is seeking to do business with the City, or has interests that may be substantially affected by the performance or non performance of the employee's official duties, for representing, advising, presenting, or assisting in matters within official duties;
4. Misuse of official position or withholding official action on a matter in which they have an outside personal or financial interest;
5. Use of City time, services, equipment, property or facilities for personal and/or financial benefit;
6. Coercion of another employee in any manner which will result in outside personal and/or financial benefit;
7. Giving away or taking for one's self City owned property, property belonging to a citizen, or services outside of typical means addressed in City Ordinances;
8. Solicitation of or acceptance of, directly or indirectly, any gift that benefits the employee's personal or financial interest if it can be reasonably inferred that the gift is intended to influence the employee's actions or judgment, from any organization or citizen which does, or is seeking to do business with the City, or has interests that may be substantially affected by the performance or non performance of the employee's official duties. For the purpose of this section, "gift" includes, but is not limited to: money, property, items of value, services, loans, favors, promises, travel, entertainment, hospitality, and

employment, but does not include food and refreshments with a value of less than one hundred dollars (\$100) consumed in a day.

9. Disclosure of confidential information gained from City employment if the use or disclosure could result in a financial or personal benefit, unless that information has already become public;
10. Aiding in or not reporting any violation of the Code of Ethics and Conflict of Interest policies.

It is the employee's responsibility to report any actual or potential conflict that may exist between the employee (and/or an immediate family member) and the City in writing to the City Manager with a copy to the Department Director at the time any conflict occurs.

Any honorarium or contributions received must be turned over to the Finance Department.

Violations of or complaints relating to this policy must be reported immediately to the City Manager.

Violation of this Policy may result in disciplinary action up to and including termination.

7-3. Confidential Information

During the course of work, an employee may become aware of confidential information about City of Alamogordo's business, including but not limited to information regarding City and/or citizen and employee personal information. It is extremely important that all such information remain confidential. Any employee who improperly copies, removes, destroys (whether physically or electronically), uses or discloses confidential information to anyone outside of the City without permission may be subject to disciplinary action up to and including termination. Employees may be required to sign an agreement reiterating these obligations.

7-4. Employee/Employer Relations

All City employees are expected to treat other employees and management in a respectful and courteous manner while on duty.

7-5. Workplace Conduct

City of Alamogordo endeavors to maintain a positive work environment. Each employee plays a role in fostering this environment. Accordingly, we all must abide by certain rules of conduct, based on honesty, common sense and fair play.

Because everyone may not have the same idea about proper workplace conduct, it is helpful to adopt and enforce rules all can follow. Unacceptable conduct may subject the offender to disciplinary action, up to and including termination, in the City's sole discretion. The following are examples of some, but not all, conduct which can be considered unacceptable:

1. Obtaining employment on the basis of false or misleading information.
2. Stealing, removing or defacing City of Alamogordo property or a co-worker's property.
3. Disclosure of confidential information.
4. Completing another employee's time records without authorization.
5. Violation of safety rules and policies.
6. Violation of City of Alamogordo's Drug and Alcohol-Free Workplace Policy.

7. Fighting, threatening or disrupting the work of others, or other violations of City of Alamogordo's Workplace Violence Policy.
8. Failure to follow lawful instructions of a supervisor.
9. Failure to perform assigned job duties.
10. Violation of the Punctuality and Attendance Policy, including but not limited to irregular attendance, habitual lateness or unexcused absences.
11. Gambling on City property.
12. Willful or careless destruction or damage to City assets, or to the equipment or possessions of another employee.
13. Wasting work materials.
14. Performing work of a personal nature during working time.
15. Violation of the Solicitation and Distribution Policy.
16. Violation of City of Alamogordo's Harassment or Equal Employment Opportunity Policies.
17. Violation of the Communication and Computer Systems Policy.
18. Unsatisfactory job performance.
19. Any other violation of City policy or local, state, or federal law.

Obviously, not every type of misconduct can be listed. City of Alamogordo reserves the right to impose whatever discipline it chooses, or none at all, in a particular instance. The City will deal with each situation individually and nothing in this manual should be construed as a promise of specific treatment in a given situation. However, City of Alamogordo will endeavor to utilize progressive discipline but reserves the right in its sole discretion to terminate an employee at any time for any reason.

The observance of these rules will help to ensure that our workplace remains a safe and desirable place to work.

7-6. Health and Safety

The health and safety of employees and others on City property are of critical concern to City of Alamogordo. The City intends to comply with all health and safety laws applicable to our City. To this end, we must rely upon employees to ensure that work areas are kept safe and free of hazardous conditions. Employees are required to be conscientious about workplace safety, including proper operating methods, and recognizing dangerous conditions or hazards. Any unsafe conditions or potential hazards should be reported to management immediately, even if the problem appears to be corrected. Any suspicion of a concealed danger present on the City's premises, or in a product, facility, piece of equipment, process or City practice for which the City is responsible should be brought to the attention of management immediately.

Periodically, the City may issue rules and guidelines governing workplace safety and health. The City may also issue rules and guidelines regarding the handling and disposal of hazardous substances and waste. All employees should familiarize themselves with these rules and guidelines, as strict compliance will be expected.

Any workplace injury, accident, or illness must be reported to the employee's supervisor as soon as possible, regardless of the severity of the injury or accident.

7-7. Hiring Relatives/Employee Relationships

It is the City's policy to avoid the practice or appearance of nepotism through family relations or fraternization in employment. In carrying out this policy, the following family relationship or relationship through fraternization exists between the employees, and either employee:

- A. would have the authority to appoint, remove, correct the action of, evaluate the performance of, or recommend any employment actions or conditions of employment of the other;
- B. is asked to participate in a selection process where another has applied for a position; and/or
- C. is under other circumstances which would place the employees in a situation of actual or reasonably foreseeable conflict between the City's interest and their own.

Should any of the relationships afore-mentioned exist, the employee shall advise their immediate supervisor and immediately withdraw from any conflicting action or processes.

While the City of Alamogordo encourages amicable relationships between members of management and their subordinates, or among members of the same department, it recognizes that involvement in a romantic relationship may compromise or create a perception that compromises an employee's ability to perform his or her job. Any involvement of a romantic nature between a supervisor and anyone he or she supervises, either directly or indirectly, is prohibited.

Any employee in a relationship that may cause the practice or appearance of nepotism in employment shall disclose the relationship in writing to their immediate supervisor immediately. Parties in such relationships may be reassigned at the discretion of the City Manager.

Violations of this policy may result in corrective action up to and including termination.

Immediate Relatives - Includes spouse, child, parent, sibling, grandparent, grandchildren, in-laws, and step and half relatives of the same. This definition shall also include persons related by blood or marriage residing in an employee's home and to persons who have established a relationship by other operation of law or through lifestyle accommodations being equivalent of a marriage or family relationship.

7-8. Professional Dress and Personal Appearance

The appearance and dress of employees is important in creating a favorable image supportive of public confidence. City employees should present a professional demeanor conducive to high work standards and consistent with job duties.

Employees are expected to report to work well groomed, clean, and dressed according to the position requirements. Some employees may be required to wear uniforms or safety equipment/clothing. Please contact your supervisor for specific information regarding acceptable attire for your position. If you report to work dressed or groomed inappropriately, you may be prevented from working until you return to work well groomed and wearing the proper attire.

Uniforms that are supplied to employees by the City shall not be worn off duty and may be subject to tax in compliance with IRS rules.

7-9. Personal Visits and Telephone Calls

Disruptions during work time can lead to errors and delays. Therefore, we ask that personal visits and telephone calls or other correspondence be kept to a minimum or occur preferably, during lunch or break time when ever possible.

7-10. Punctuality and Attendance

Employees are hired to perform important functions at City of Alamogordo. As with any group effort, operating effectively takes cooperation and commitment from everyone. Therefore, attendance and punctuality are very important. Unnecessary absences and lateness are expensive, disruptive and place an unfair burden on fellow employees and supervisors. We expect excellent attendance from all employees. Excessive absenteeism or tardiness will result in disciplinary action up to and including termination.

We do recognize, however, there are times when absences and tardiness cannot be avoided. In such cases, employees are responsible for notifying their supervisor, through the chain of command, at least one (1) hour before the beginning of their scheduled work period. Asking another employee, friend or relative to give this notice is improper and constitutes grounds for disciplinary action. Employees shall contact their supervisor, stating the reason for the absence and its expected duration, for every day of absenteeism. If the employee knows in advance that he or she will be unable to report, the employee shall seek the supervisor's approval prior to that date. It is essential to give notice as far in advance as possible so that the supervisor can make proper accommodations to provide the services that the department must provide.

Individual departments may establish work rules requiring employees to call in with more than one (1) hour notice based on business necessity.

In cases of a medical or other such emergency the City will accept a call from a friend or relative. The City will evaluate each instance on a case by case basis.

See Section 4-19. Separation From Employment for job abandonment.

7-11. Solicitation and Distribution

To avoid distractions, solicitation by an employee of another employee is prohibited while either employee is on work time. "Work time" is defined as the time an employee is engaged, or should be engaged, in performing his or her work tasks for City of Alamogordo.

Distribution of advertising material, handbills, printed or written literature of any kind in working areas of the City is prohibited at all times.

No City employee shall be required to contribute funds to a community volunteer service or charity drive. Employees wishing to serve as volunteers to collect contributions from other employees will clear it with their Department Director before beginning solicitation.

7-12. Supplementary Employment

The City shall be considered the primary employer for all regular employees. While the City does not prohibit employees from having a second job, secondary employment must not affect the employee's work hours, interfere or conflict with the employee's regular duties, raise any ethical concerns, or necessitate long hours that may impact the employee's working effectiveness.

Employees that are contemplating secondary employment are required to submit a written request for approval, prior to engaging in secondary employment, to their Department Director. The written request should identify the secondary employer, the nature of the duties to be performed, and the anticipated hours the employee will be working. Supplementary employment will include in kind trade and bartering. This request will be promptly answered in writing and a copy placed in the employee's personnel file.

Disclosures of supplementary employment shall be made in writing to the Human Resources Department before entering City employment, and during the month of January every year thereafter. Failure to disclose supplementary employment may result in corrective action.

Employees who are receiving Worker's Compensation or benefits under the Family and Medical Leave Act will not be allowed to engage in outside employment except as allowed by law.

7-13. Tobacco

The use of smoking and chewing tobacco products, including but not limited to, cigarettes, e-cigarettes, cigars, and pipes is prohibited inside any City of Alamogordo facility, vehicle, or equipment.

1. The use of smoking tobacco products is allowed out-of-doors clear from any doorways, windows, or any ventilation system that may circulate the outside air to the indoors.
2. Smoking tobacco products are not to be used near any chemicals, gas pumps, or any other hazardous or flammable chemicals or materials.
3. Smokeless and smoking tobacco products may only be used during breaks and lunch periods.
4. Tobacco waste is to be disposed of properly using a designated fire resistant container.

7-14. City Property

Any item issued to an employee or in an employee's possession, including, but not limited to, employee keys, I.D. cards, computer lap tops, radios, tools, cell phones, City credit cards, uniforms, policy and procedure and/or rules and regulation manuals, all confidential information, etc. must be returned to the City upon request. Employees will be responsible for any lost, stolen, or damaged items. The value of any property issued and not returned may be deducted from the employee's paycheck, and the employee may be required to sign a wage deduction authorization form for this purpose.

Intellectual property created by an employee during the course of their duties, remains the property of the City of Alamogordo.

7-15. Operation of Vehicles

All employees authorized to drive City-owned or leased vehicles or personal vehicles in conducting City business must possess a current, valid driver's license in the proper classification, and an acceptable driving record.

An employee must have a valid driver's license in his or her possession while operating a vehicle on or off City property. It is the responsibility of every employee to drive safely and obey all traffic, vehicle safety, and parking laws or regulations. Drivers must demonstrate safe driving habits at all times.

All occupants of a City vehicle will have a safety belt properly fastened, so if equipped, about their body at all times when the vehicle is in motion, in accordance with New Mexico state law.

City vehicles shall not be for personal use except incidentally.

An employee that requests and is approved to use their personal vehicle for City business must be insured and licensed. The same rules of conduct outlined herein will apply in cases of approved personal vehicle use.

Suspension or Revocation of Drivers License

Any employee whose driver's license is suspended or revoked is not eligible to drive City vehicles. It is the responsibility of the employee to immediately notify his or her supervisor that their driving privilege has been suspended or revoked.

Any employee whose driver's license is suspended or revoked and who is required to drive as a part of his or her job may be considered unable to meet the minimum requirements of the job. On first occurrence and based on the decision of the Department Director, the employee may be:

- A. Suspended without pay for the period of license revocation if ninety (90) calendar days or less;
- B. Demoted with a pay decrease to a non-driving position indefinitely; or
- C. If the suspension or revocation is longer than ninety (90) calendar days, terminated.
- D. Considered for a reasonable accommodation if not detrimental to department operations.

Employees will be subject to termination on the second occurrence of suspension or revocation of his or her driver's license within a five (5) year period, regardless of the time length of the revocation.

Any employee driving a City vehicle or operating City equipment while impaired by alcohol or illegal drugs will be subject to disciplinary action, up to and including termination as outlined in the City of Alamogordo Drug and Alcohol Free Workplace Policy.

Safety Sensitive drivers as defined by the Department of Transportation (D.O.T) are responsible for notifying their supervisor of any prescriptions identified in 21 CFR 1308.11 (391.42 (b)(12)) or any other substance such as amphetamine, a narcotic, or any other habit forming drug. Human Resources is responsible for verifying and documenting a valid prescription from a licensed practitioner. Such notifications by the employee will be made on the next scheduled work day.

Any situation causing an employee to be convicted of any violation while driving a City vehicle will be reported to the Department Director for appropriate action.

The Human Resource office will review motor vehicle records of all employees in regular driving positions at

least annually.

7-16. Personal and Company-Provided Portable Communication Devices

City-provided portable communication devices (PCDs), including cell phones and personal digital assistants, should be used primarily for business purposes. Employees have no expectation of privacy in regard to the use of such devices, and all use is subject to monitoring, to the maximum extent permitted by applicable law. This includes, as permitted, the right to monitor personal communications as necessary.

Some employees may be authorized to use their own PCD for business purposes. These employees should work with the MIS department to configure their PCD for business use. Communications sent via a personal PCD also may be subject to monitoring if sent through the City's networks and the PCD must be provided for inspection and review upon request.

All conversations, text messages and e-mails must be professional. When sending a text message or using a PCD for business purposes, whether it is a City-provided or personal device, employees must comply with applicable City guidelines, including policies on sexual harassment, discrimination, conduct, confidentiality, equipment use and operation of vehicles. Using a City-issued PCD to send or receive personal text messages is prohibited at all times.

Please note that whether employees use their personal PCD or a City-issued device, the City's electronic communications policies, including but not limited to, proper use of communications and computer systems, remain in effect.

Portable Communication Device Use While Driving

Employees who drive on City business must abide by all state or local laws prohibiting or limiting PCD (cell phone or personal digital assistant) use while driving. Further, even if usage is lawful, employees must choose to refrain from using any PCD while driving. "Use" includes, but is not limited to, talking or listening to another person or sending an electronic or text message via the PCD.

Employees who are charged with traffic violations resulting from the use of their PCDs while driving will be solely responsible for all liabilities that result from such actions.

Texting and e-mailing while driving is prohibited in all circumstances.

7-17. Use of Communications and Computer Systems

City of Alamogordo's communication and computer systems are intended primarily for business purposes; however limited personal usage is permitted if it does not hinder performance of job duties or violate any other City policy. This includes the voice mail, e-mail and Internet systems.

City of Alamogordo may access the voice mail and e-mail systems and obtain the communications within the systems, including past voice mail and e-mail messages, without notice to users of the system, in the ordinary course of business when the City deems it appropriate to do so. The reasons for which the City may obtain such access include, but are not limited to: maintaining the system; preventing or investigating allegations of system abuse or misuse; assuring compliance with software copyright laws; complying with legal and regulatory requests for information; and ensuring that City operations continue appropriately during an employee's absence.

Users have no expectation of privacy in regard to their use of the City of Alamogordo systems.

7-18. Use of Facilities, Equipment and Property, Including Intellectual Property

Equipment essential in accomplishing job duties is often expensive and may be difficult to replace. When using City property, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards and guidelines.

It is the employee's responsibility to timely report any motor vehicle accident, damage to City property, and/or injury occurring while conducting City business or while operating a City Vehicle.

Employees should notify their supervisor if any equipment, machines, or tools appear to be damaged, defective, or in need of repair. Prompt reporting of loss, damages, defects, and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment used on the job.

Employees are prohibited from any unauthorized use of the City's intellectual property, such as audio and video tapes, print materials and software.

Improper, careless, negligent, destructive, or unsafe use or operation of equipment can result in disciplinary action, up to and including termination.

The City is not responsible for any damage to employees' personal belongings.

7-19. City Litigation Requirement

As a condition of employment or continued employment, City employees must cooperate with City Officials in an effort to recover damages, benefits, settlements or any court or administrative action relating to any City business.

Any contact that occurs on City time that leads to police contact must be reported to a supervisor immediately.

Employees must cooperate with any resulting investigation(s).

7-20. City Travel Expense Reimbursement

Travel expenses will be processed per the City of Alamogordo Travel Policy.

7-21. Bulletin Boards

Important notices and items of general interest are continually posted on City bulletin boards. Employees should make it a practice to review bulletin boards frequently. This will assist employees in keeping up with what is current at City of Alamogordo.

Department Directors are responsible for current information and the posting of current job vacancies. Distasteful, risque or potentially offensive or discriminatory materials shall not be posted.

7-22. Lobbying

In order to assure that the official policies of the City are expressed during appearances before legislative bodies or other governmental agencies, the following rules will apply:

- A. All testimony or statements, written or oral, given by an employee of the City before any governmental legislative body or other governmental agency shall strictly comply with the policies set forth by the City Commission, by motion, resolution or ordinance.
- B. When there is a lack of formal action by the City Commission, authorization must be obtained from the City Manager prior to any activity by an employee of the City.
- C. The policies expressed above shall also apply to any correspondence written on City or departmental stationery and to any oral conversation where the speaker represents him or herself as an employee of the City.
- D. The policies expressed above apply to all employees during normal working hours except that any written statement on City or departmental stationery applies at all times. Any employee who appears before any governmental legislative body or any agency during hours other than working hours will not represent themselves as employees of the City unless all information given is in compliance with this policy. If during the course of an appearance or oral interchange, the fact emerges that the person is an employee of the City, then a disclaimer will be issued that the information or testimony given represents the views of the employee and not that of the City. If information or testimony is given that is contrary to official policies of the City, then a statement to that effect will be given.

7-23. Political Activities

City employees shall not engage in political activities while on the job, while wearing a City uniform, or while using City property. City employees shall not be expected, required or coerced to contribute to any campaign. No City employee will represent the official position of the City at any political meeting or in any political activity without the prior approval of the City Manager or his or her designee.

A City employee choosing to campaign for political office during normal working hours shall utilize accrued leave or leave without pay.

A City employee who is elected to the Alamogordo City Commission shall resign from City employment prior to swearing in for the political seat.

7-24. Publicity/Statements to the Media

All media inquiries regarding the position of the City as to any issues must be referred to the Communications & Marketing Administrator. Only the Communications & Marketing Administrator is authorized to make or approve public statements on behalf of the City. No employees, unless specifically designated by the City Manager, are authorized to make those statements on behalf of City. Any employee wishing to write and/or publish an article, paper, or other publication on behalf of the City must first obtain approval from the City Manager.

7-25. Social Media Policy

SCOPE: These rules have general applicability to all prospective and current employees, both classified and unclassified, officials, and others serving in an official capacity on behalf of the City, i.e. City representatives.

PURPOSE: To establish and publish the City's position on the permitted and prohibited use of all forms of social media by City representatives, for business use. The policy covers current and future forms of social media.

POLICY: The City may use social media to meet community needs, perform community outreach, problem-solving, and otherwise furthering the goals of the City. In doing so, the City's official use of social media must be at the highest professional standard.

OFFICIAL USE OF SOCIAL MEDIA

A. The City shall maintain a social media presence through its Communications and Marketing Office.

B. No department shall have their own specific social media page or presence without the express consent of the City Manager.

C. All department pages that are approved by the City Manager will be administered by the Communications and Marketing Administrator.

i. Any director wishing to administer their own page shall fill out an application with the Public Information Office, which will then be considered. If approved, the department will be able to administer their own social media page, but shall also continue to include the Communications and Marketing Administrator as an administrator as well.

D. In order to minimize public confusion, City Employees should only publish or post information under the City's official user name and profile.

E. All social media content shall adhere to applicable state, federal, and local laws, regulations, the City's General Standards of Conduct and Code of Ethics. As such, if the City Manager or his or her designee feels the post is inappropriate, it will not be posted, at the City Manager's discretion.

F. All contents published and received by the City using social media in connection with City business are public records, and therefore subject to record retention law.

G. First Amendment: City representatives are cautioned that their speech, made pursuant to their employment duties, in the course of their official duties, or relating to their professional responsibilities, whether on or off duty, may not be protected by the First Amendment.

H. No expectation of privacy: Communications sent or received using the City's electronic communications systems or equipment are the City's property, and are not individual's private property. City representatives using City equipment have no right to privacy and no expectation of privacy with respect to those communications, whether communicated via social media sites or otherwise. The City reserves the right to monitor, review, intercept or gain access to communications initiated or received by City representatives on the City's electronic communications systems and equipment. Use of the City's systems constitutes consent to such monitoring, reviewing, interception or access. The City is not required to provide notice to City representatives before or after any review of communications.

I. Social media is subject to the Inspection of Public Records Act (IPRA) and any other open records laws.

PRIVATE USE OF SOCIAL MEDIA BY CITY EMPLOYEES

A. The City recognizes and respects that City employees may choose to have their own personal social media accounts, and does not wish to regulate personal use.

B. However, employees should keep in mind that identifying one-self as a City employee and making disparaging remarks about the City on a public website is not appropriate, as noted in the City's General Standards of Conduct and Code of Ethics.

C. Therefore, employees are cautioned that acting in their capacity as a City employee and making adverse remarks about the City is considered to be in violation of this policy and disciplinary action may be taken as a result of the remarks.

VIOLATIONS OF THE SOCIAL MEDIA POLICY

A. City employees who become aware of or having knowledge of a posting or of any website or webpage in violation of any provision of this policy should notify the appropriate supervisor, department director, human resources staff person or other high-level management official immediately.

B. Violations of this policy.

(1) Employees in violation of any provision of this policy are subject to disciplinary action, up to and including termination.

EMPLOYEE RIGHTS: Nothing in this policy is meant to restrict or prohibit City personnel rights under any applicable local, state or federal laws.

7-26. A Few Closing Words

This manual is intended to give employees a broad summary of things they should know about City of Alamogordo. The information in this manual is general in nature and, should questions arise, any member of management should be consulted for complete details. While we intend to continue the policies, rules and benefits described in this manual, City of Alamogordo, in its sole discretion, may always amend, add to, delete from or modify the provisions of this manual and/or change its interpretation of any provision set forth in this manual. Employees should not hesitate to speak to management if they have any questions about the City or its personnel policies and practices.

Section 8 - Employee Handbook Related Forms

8-1. Social Media Application

CITY OF ALAMOGORDO **SOCIAL MEDIA APPLICATION**

Applicant: _____ Department: _____

Host Site: _____

Reason for establishing new site:

Which employees will be authorized to post, have access to the password, and act as moderators? Please list names of each administrator and password for the site.

Name	Page Role
_____	_____
_____	_____
_____	_____
_____	_____

How often do you expect employees to post content?

How often will employees moderate content posted by the public?

City Manager approval: _____ Date: _____

The signed original copy of this application will be filed with the Communications/Marketing Administrator.

8-2. Social Media and Networking Approval/Agreement Form

CITY OF ALAMOGORDO

SOCIAL MEDIA and NETWORKING APPROVAL/AGREEMENT FORM

Name: _____ Position/Title: _____

Department: _____ Section: _____

Authorized to Access the following City Websites, Social Media Pages, and Social Networking:

Approved by Department Director:

Signature _____ Date _____

Approved by City Manager:

Signature _____ Date _____

I have received the Online Publishing and Social Media Policy (the "**Policy**") I agree to use City Websites, City-approved Social Media Pages, and engage in Social Networking Activities for City business only as appropriate and in compliance with this Policy. I understand that I must have approval from my Department Director and the City Manager to use City Websites, Social Media Pages, or engage in Social Networking on behalf of the City. I also understand that I am responsible for all postings made by me on City Websites, Social Media Pages, or in Social Networking Activities including those made in the comments sections. I further understand that this Policy also applies to City-related postings made by me via personal (non-City) websites, Social Media Pages, and Social Networking Activities, and I agree to adhere to the guidelines in this Policy when so doing.

I acknowledge that all content on City Websites, City-approved Social Media Pages or in Social Networking Activities are considered to be City property and will be monitored by officials of the City. I understand that employees do not have privacy rights in the use of City Websites, Social Media Pages, and in Social Networking Activities, and the postings, data, access to or distribution of such materials is subject to all applicable laws.

I agree to abide by all security procedures as set forth by MIS, before accessing or posting publishing content on City Websites, City-approved Social Media Pages, or via Social Networking Activities. I acknowledge that any violation of the rules and guidelines set forth in this Policy or in any current or future modified Human Resources Social Media Policy, can be grounds for disciplinary action, up to and including termination of my employment.

Printed Name

Signature

Date

The signed original copy of this agreement form will be filed in your personnel file.

CC: Communications/Marketing Administrator

8-3. Pay Check Release form

CITY OF ALAMOGORDO PAYCHECK RELEASE FORM

TODAY'S DATE: _____ PAY DATE OF CHECK TO BE RELEASED: _____

EMPLOYEE NAME: _____

This is my written authorization to release my paycheck to:

(Name of Person Authorized to Pick Up Payroll Check)

I understand that my paycheck may only be picked up directly through the City Hall Payroll Office located at 1376 E. 9th St. Authorized person must show proof of ID at the time of check pick up.

Employee's Signature

Date

Signature of Authorized Person

Date Check Picked Up

Signature of Employee Releasing Check

Date Check Released

Original: Personnel File

CC: Payroll

8-4. Request for Early Release of Payroll Check

CITY OF ALAMOGORDO

REQUEST FORM FOR EARLY RELEASE OF PAYROLL CHECK

Date of Request: _____

Employee Name: _____

Payroll Period: _____

Scheduled Pay Date: _____

Early Payment Date Requested: _____

Employee Signature

Date

Department Approval:

I am authorizing that the aforementioned employee is given his or her payroll check early as indicated above, and that said payment is not an advance payment of services not rendered as prohibited by Section 30-23-2 NMSA1978.

Department Director

Date

Finance Director

Date

City Manager

Date

I am acknowledging that the payroll department is able to release the check requested by _____.

(if not by the date requested, explain why)_____.

Accounting Manager

Date

CC: Personnel File

General Handbook Acknowledgment

This Employee manual is an important document intended to help you become acquainted with City of Alamogordo. This document is intended to provide guidelines and general descriptions only; it is not the final word in all cases. Individual circumstances may call for individual attention.

Because the City's operations may change, the contents of this manual may be changed at any time, with or without notice, in an individual case or generally, at the sole discretion of management.

Please read the following statements and sign below to indicate your receipt and acknowledgment of this Employee manual.

The key provisions of this manual have been reviewed with me and I acknowledge my responsibility to know all provisions included in this manual. I understand that the policies, rules and benefits described in it are subject to change at the sole discretion of the City at any time.

I understand that my signature below indicates that I have been made aware that the City's Employee manual is available on the City's website at ci.alamogordo.nm.us. Contact Human Resources or Legal for any questions regarding this manual.

Employee's Printed Name: _____ Position: _____

Employee's Signature: _____ Date: _____

The signed original copy of this acknowledgment will be filed in your personnel file.

Receipt of Sexual Harassment Policy

It is City of Alamogordo's policy to prohibit harassment of any employee by any supervisor, employee, citizen or vendor on the basis of sex or gender. The purpose of this policy is to ensure that all City employees are free from sexual harassment. While it is not easy to define precisely what types of conduct could constitute sexual harassment, examples of prohibited behavior include unwelcome sexual advances, requests for sexual favors, obscene gestures, displaying sexually graphic magazines, calendars or posters, sending sexually explicit e-mails, text messages and other verbal or physical conduct of a sexual nature, such as uninvited touching of a sexual nature or sexually related comments. Depending upon the circumstances, improper conduct also can include sexual joking, vulgar or offensive conversation or jokes, commenting about an employee's physical appearance, conversation about your own or someone else's sex life, or teasing or other conduct directed toward a person because of his or her gender which is sufficiently severe or pervasive to create an unprofessional and hostile working environment.

If the employee feels that he or she has been subjected to conduct which violates this policy, the employee should immediately report the matter to the employee's supervisor. If unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of perceived harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office. Every report of perceived harassment will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

In addition, the City will not allow any form of retaliation against individuals who report unwelcome conduct to management or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels that he or she has been subjected to any such retaliation, the employee should report it in the same manner in which a claim of perceived harassment would be reported under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

I have read and I understand City of Alamogordo's Sexual Harassment Policy.

Employee's Printed Name: _____ Position: _____

Employee's Signature: _____ Date: _____

The signed original copy of this receipt will be filed in your personnel file.

Receipt of Harassment Policy

It is City of Alamogordo's policy to prohibit intentional and unintentional harassment of any individual by another person on the basis of any protected classification including, but not limited to, race, color, national origin, disability, religion, marital status, veteran status, sexual orientation or age. The purpose of this policy is to ensure that no one harasses another individual.

If an employee feels that he or she has been subjected to conduct which violates this policy, he or she should immediately report the matter to the employee's supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office. Every report of perceived harassment will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

In addition, the City will not allow any form of retaliation against individuals who report unwelcome conduct to management or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels he or she has been subjected to any such retaliation, he or she should report it in the same manner in which the employee would report a claim of perceived harassment under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

I have read and I understand City of Alamogordo's Non-Harassment Policy.

Employee's Printed Name: _____ Position: _____

Employee's Signature: _____ Date: _____

The signed original copy of this receipt will be filed in your personnel file.

Receipt of Anti-Bullying Policy

City of Alamogordo prohibits any form of bullying. Bullying is an act of aggression causing embarrassment, pain, or discomfort to someone. It can take a number of forms including, but not limited to; physical, verbal, making gestures, or exclusion. It may be an abuse of power. It can be planned and organized, or it may be unintentional. It may be perpetrated by individuals or by groups of individuals.

The City is opposed to bullying and it will not be tolerated. If an employee feels that he or she has been subject to conduct in the workplace which violates this policy, he or she should immediately report the matter to the employee's supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be bullying, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office.

I have read and I understand City of Alamogordo's Anti-Bullying Policy.

Employee's Printed Name: _____ Position: _____

Employee's Signature: _____ Date: _____

The signed original copy of this receipt will be filed in your personnel file.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/30/2017

Report No: 7.

Submitted By: Bob Johnson

Subject: Approve the award of RFP 2017-007, On-Call Utility Services, to General Hydronics Utilities, LLC.
(*Bob Johnson, Engineering Manager*)

Fiscal Impact: N/A - Task orders are funded as requirements are developed.

Amount Budgeted: \$0.00

Fund: 081-9399-990-6899

Additional Fiscal Impact:

Recommendation: Approve the award.

Background: The City requested proposals for a wide variety of on-call utility services such as valve, pipeline, and fire hydrant replacement.

RFP 2017-007 was advertised on September 3, 2017. One proposal was received on October 5, 2017; General Hydronics Utilities, LLC.

The proposal was reviewed and determined to be acceptable and in compliance with the terms and conditions of the RFP.

A copy of the proposal from General Hydronics Utilities, LLC can be viewed in the City Clerks Office.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/30/2017

Report No: 8.

Submitted By: Bob Johnson

Subject: Consider, and act upon, Change Order No. 4, Public Works Bid No. 2017-001, to Smithco Construction, Inc. related to the 1-MGD Brackish Water Treatment Facility project, in an amount not to exceed \$147,705.01, including NMGR. *(Bob Johnson, Engineering Manager)*

Fiscal Impact: \$147,705.01

Amount Budgeted: \$9,202,614.00

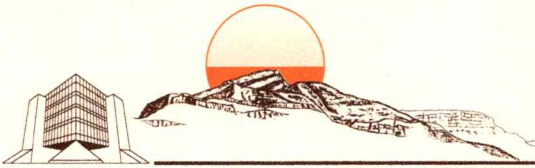
Fund: 054-0099-990.67-74 PW1406

Additional Fiscal Impact:

Recommendation: Approve the Change Order.

Background: This Change Order incorporates the following:

1. Additional work due to a conflict with the raw water line.
2. Increase the estimated quantity of Bid Item 004 from 18,500 tons to 21,000 tons, based on actual solid waste material removed to date, and estimated to be removed as the project progresses.
3. Additional work due to substantial depth of a 24" water line.
4. Trenching, conduit, and transformer pad construction for primary electrical feed.



City of Alamogordo



Engineering Dept. • 1376 East Ninth St. • Alamogordo, NM 88310 • (575) 439-4337 • FAX (575) 439-4343

CONTRACT CHANGE ORDER

CHANGE ORDER NO. 4

1-MGD BRACKISH WATER TREATMENT FACILITY

PUBLIC WORKS PROJECT NO. 2017-001

DATE: **NOVEMBER 28, 2017**

CONTRACTOR: SMITHCO CONSTRUCTION, INC.
P.O. BOX 45
CABALLO, NM 87931

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

THE FOLLOWING CHANGES ARE HEREBY MADE TO THE CONTRACT DOCUMENTS:

1. Additional work due to a conflict with the raw water line.
2. Increase the estimated quantity of Bid Item 004 from 18,500 tons to 21,000 tons, based on actual solid waste material removed to date and estimated to be removed as the project progresses.
3. Additional work due to substantial depth of a 24" water line.
4. Trenching, conduit, and transformer pad construction for primary electrical feed.
5. The contract performance period is hereby increased by an additional 52 calendar days.

REVISED CONTRACT AMOUNT

- | | |
|--|-----------------|
| 1. Original Contract Amount | \$8,778,400.00* |
| 2. Total Contract Amount Including Previously
Approved Change Orders..... | \$8,939,993.09* |
| 3. Amount of this Change Order (increase)..... | \$ 136,763.90* |
| 4. Total Revised Contract Amount to Date | \$9,076,756.99* |

* excludes New Mexico Gross Receipts Tax.

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

CHANGE ORDER RECOMMENDATION FOR APPROVAL:

BY:  11.28.2017
Engineer Date

CHANGE ORDER ACCEPTED AND APPROVED:

BY:  11/28/17
Contractor Date

CHANGE ORDER APPROVED BY CITY MANAGER/CITY COMMISSION:

BY: _____
City Manager Date

BY: _____
City Attorney Date

Change Order Request

Revision 1

COR #10



6 King Canyon Loop
Caballo, NM 87931

Project:

City of Alamogordo

1MGD Brackish Water Treatment Facility

Submitted: Wednesday, October 25, 2017

Location	Sheet	Date of Occurance	RFI
Sta 21+00	C6	10/12/2017	N/A

Inquiry: This COR cover's additional costs associated with Design Change Notification #06 per the following breakdown:

10/12: Smithco found unmarked existing 18" AC Line @ 2:30pm and ceased production (3 hour delay)
 10/16 - 10/19: Smithco explored the locations of existing utilities under the guidance of CDM Smith's RPR (5 hours)
 10/23: Smithco crossed above the existing line per DCN 06 using 4 additional 45 bends (10 hours)
 10/24: Smithco finished crossing line & poured concrete encasement per DCN 06 (4 hours)

1	Direct Labor	\$	4,043.61
2	Indirect Cost	\$	1,853.19
3	Travel	\$	518.00
4	Equipment	\$	3,230.36
5	Materials	\$	6,471.38
6	Subcontracts	\$	-
7	Other (Bond)	\$	278.01
8	S-Total	\$	16,394.55
9	Profit & Overhead	\$	2,417.48
10	Total	\$	18,812.03

COMMENTS:

This change will require 14 Additional Calendar Days

DESCRIPTION			COR #10
	Rate	HOURS	TOTAL
Project Manager	\$ 33.00	2	\$ 66.00
Superintendent	\$ 36.25	4	\$ 145.00
Foreman	\$ 32.02	20	\$ 640.40
Carpenter/Lather	\$ 32.02		\$ -
Cement Mason	\$ 29.74		\$ -
Ironworker	\$ 40.18		\$ -
Plumber/Pipefitter	\$ 42.69	17	\$ 725.73
Operator Group I (Truck Driver)	\$ 23.50	20	\$ 470.00
Operator Group II	\$ 24.59		\$ -
Operator Group III (Trackhoe)	\$ 25.24	17	\$ 429.08
Operator Group IV	\$ 25.45		\$ -
Operator Group V	\$ 25.51		\$ -
Laborer I	\$ 23.05	68	\$ 1,567.40
Subtotal			\$ 4,043.61
Labor Burden @ 45.83%			\$ 1,853.19
Labor Total		148	\$ 5,896.80
Travel/Perdiem	\$ 3.50	148	\$ 518.00
420 Cat Hoe	\$40.93	5	\$ 204.65
Cat 345 Excavator	\$194.74		\$ -
Welding Truck	\$40.14		\$ -
Cat D6K Dozer	\$77.51		\$ -
320 Cat Excavator	\$89.11	13	\$ 1,158.43
Supt/Fore Truck	\$25.14	20	\$ 502.80
Crew Truck	\$25.14		\$ -
Blade	\$85.32		\$ -
Water Truck	\$35.00	13	\$ 455.00
Forklift	\$40.93		\$ -
950H Wheel Loader	\$69.96	13	\$ 909.48
Equipment Total			\$ 3,230.36
Materials Total:			\$ 6,471.38
18" Ductile Iron 45 bend	\$ 470.40	4	\$ 1,881.60
18" Megalug w/ bolt kit	\$ 297.32	8	\$ 2,378.56
18" Bell Restraint	\$ 325.42	1	\$ 325.42
18" C905 PVC Pipe (LF)	\$ 29.29	20	\$ 585.80
3000 PSI Concrete (CY)	\$ 130.00	10	\$ 1,300.00
Sub Contract:			\$ -
			\$ -
			\$ -
Profit & Overhead @ 5%			\$ -
Subtotal Labor, Equipment & Materials			\$ 16,116.54
Profit & Overhead @ 15%			\$ 2,417.48
Sub Contract:			\$ -
Subtotal			\$ 18,534.02
Bond			\$ 278.01
TOTAL			\$ 18,812.03

COR #11

COR #11



6 King Canyon Loop
Caballo, NM 87931

Project:

City of Alamogordo

1MGD Brackish Water Treatment Facility

Submitted: Tuesday, October 31, 2017

Location	Sheet	Date of Occurance	RFI
RW Pipeline	Civil	10-4 through 10-12	N/A

Inquiry: Smithco was authorized to exceed the contract quantity for bid item 4 by design change notification 3. This COR is for an increase of 2500 tons over the current contract quantity of 18500. Actual excavated & hauled quantity to date is approximately 19071 tons and more trash remains to be hauled. After the final quantity is acheived, the bid item can be reconciled with another change order.

Item No.	Construction Item	Unit	QTY	UNIT BID	TOTAL COR
4	Solid Waste Excavation, Hauling, and Disposal	TON	2500	\$ 40.00	\$ 100,000.00

COMMENTS:

This change will require 30 Additional Calendar Days

Change Order Request

COR #12



6 King Canyon Loop
Caballo, NM 87931

Project:

City of Alamogordo
1MGD Brackish Water Treatment Facility

Submitted: Thursday, November 9, 2017

Location	Sheet	Date of Occurance	RFI
Sta 39+62	C-8	11/6/2017	N/A

Inquiry: Smithco potholed the existing 24" waterline at the raw water tie-in shown at station 39+62 and discovered this line to be deeper than shown on the plans. The actual invert of this line was 4285.28 versus 4292.00 per plan. Smithco was able to vertically deflect the pipe downward beginning at station 37+50 and make the tie-in without the use of additional fittings. However, this 7' +/- of additional depth for 200LF of trench resulted in 1 day of extra labor to excavate & backfill.

1	Direct Labor	\$	1,738.50
2	Indirect Cost	\$	796.75
3	Travel	\$	245.00
4	Equipment	\$	2,502.80
5	Materials	\$	-
6	Subcontracts	\$	-
7	Other (Bond)	\$	91.13
8	S-Total	\$	5,374.18
9	Profit & Overhead	\$	792.46
10	Total	\$	6,166.64

COMMENTS:

This change will require 1 Additional Calendar Days

DESCRIPTION			COR #12
	Rate	HOURS	TOTAL
Project Manager	\$ 33.00		\$ -
Superintendent	\$ 36.25		\$ -
Foreman	\$ 32.02	10	\$ 320.20
Carpenter/Lather	\$ 32.02		\$ -
Cement Mason	\$ 29.74		\$ -
Ironworker	\$ 40.18		\$ -
Plumber/Pipefitter	\$ 42.69		\$ -
Operator Group I	\$ 23.50	10	\$ 235.00
Operator Group II	\$ 24.59	20	\$ 491.80
Operator Group III	\$ 25.24		\$ -
Operator Group IV	\$ 25.45		\$ -
Operator Group V	\$ 25.51		\$ -
Laborer I	\$ 23.05	30	\$ 691.50
Subtotal			\$ 1,738.50
Labor Burden @ 45.83%			\$ 796.75
Labor Total		70	\$ 2,535.25
Travel/Perdiem	\$ 3.50	70	\$ 245.00
420 Cat Hoe	\$40.93		\$ -
Cat 345 Excavator	\$194.74		\$ -
Welding Truck	\$40.14		\$ -
Cat D6K Dozer	\$77.51		\$ -
320 Cat Excavator	\$89.11	10	\$ 891.10
Supt/Fore Truck	\$25.14	10	\$ 251.40
Crew Truck	\$25.14	10	\$ 251.40
Blade	\$85.32		\$ -
Bonding Tools	\$75.00		\$ -
Watertruck	\$40.93	10	\$ 409.30
950H Wheel Loader	\$69.96	10	\$ 699.60
Equipment Total			\$ 2,502.80
Materials Total:			\$ -
			\$ -
			\$ -
			\$ -
			\$ -
			\$ -
Sub Contract:			\$ -
			\$ -
Profit & Overhead @ 5%			\$ -
			\$ -
Subtotal Labor, Equipment & Materials			\$ 5,283.05
Profit & Overhead @ 15%			\$ 792.46
Sub Contract:			\$ -
Subtotal			\$ 6,075.51
Bond			\$ 91.13
TOTAL			\$ 6,166.64

Change Order Request

COR #14



6 King Canyon Loop
Caballo, NM 87931

Project:

City of Alamogordo
1MGD Brackish Water Treatment Facility

Submitted: Thursday, November 16, 2017

Location	Sheet	Date of Occurance	RFI
Building Site	E4	Future	N/A

Inquiry: The City of Alamogordo requested a price to run the primary power conduits & construct the transformer pad for PNM at Progress Meeting #6. This COR covers these costs.

Please see attached proposal from Polson & Grady for further details.

1	Direct Labor	\$	66.00
2	Indirect Cost	\$	30.25
3	Travel	\$	7.00
4	Equipment	\$	50.28
5	Materials	\$	-
6	Subcontracts	\$	11,434.50
7	Other (Bond)	\$	174.17
8	S-Total	\$	11,762.20
9	Profit & Overhead	\$	23.03
10	Total	\$	11,785.23

COMMENTS:

This change will require 7 Additional Calendar Days

DESCRIPTION			COR #14
	Rate	HOURS	TOTAL
Project Manager	\$ 33.00	2	\$ 66.00
Superintendent	\$ 36.25		\$ -
Foreman	\$ 32.02		\$ -
Carpenter/Lather	\$ 32.02		\$ -
Cement Mason	\$ 29.74		\$ -
Ironworker	\$ 40.18		\$ -
Plumber/Pipefitter	\$ 42.69		\$ -
Operator Group I	\$ 23.50		\$ -
Operator Group II	\$ 24.59		\$ -
Operator Group III	\$ 25.24		\$ -
Operator Group IV	\$ 25.45		\$ -
Operator Group V	\$ 25.51		\$ -
Laborer I	\$ 23.05		\$ -
Subtotal			\$ 66.00
Labor Burden @ 45.83%			\$ 30.25
Labor Total		2	\$ 96.25
Travel/Perdiem	\$ 3.50	2	\$ 7.00
420 Cat Hoe	\$40.93		\$ -
Cat 345 Excavator	\$194.74		\$ -
Welding Truck	\$40.14		\$ -
Cat D6K Dozer	\$77.51		\$ -
320 Cat Excavator	\$89.11		\$ -
Supt/Fore Truck	\$25.14	2	\$ 50.28
Crew Truck	\$25.14		\$ -
Blade	\$85.32		\$ -
Bonding Tools	\$75.00		\$ -
Forklift	\$40.93		\$ -
950H Wheel Loader	\$69.96		\$ -
Equipment Total			\$ 50.28
Materials Total:			\$ -
			\$ -
			\$ -
			\$ -
			\$ -
			\$ -
Sub Contract:			\$ 11,434.50
Polson & Grady (Quote Attached)	\$ 10,890.00	1	\$ 10,890.00
Profit & Overhead @ 5%			\$ 544.50
Subtotal Labor, Equipment & Materials			\$ 153.53
Profit & Overhead @ 15%			\$ 23.03
Sub Contract:			\$ 11,434.50
Subtotal			\$ 11,611.06
Bond			\$ 174.17
TOTAL			\$ 11,785.23

Polson & Grady, Ltd.

REFRIGERATION - PLUMBING - HVAC - ELECTRICAL - UTILITIES LICENSE # 15370

TELEPHONE (575) 437-6484
FAX (575) 434-6721
1001 ZUNI DRIVE, SUITE A
ALAMOGORDO, NM 88310
pg@polsonandgrady.com

Smithco Construction Company

11/15/17

Attn: Bryce Smith

RE: 1-MGD Brackish Groundwater Treatment Facility
Proposed Change Order to Provide Primary Electrical Pathway for PNM

Bryce,

See requested pricing for providing the underground primary electrical ditch, conduits, transformer pad & bollards for PNM. All work will be installed per local PNM standards.

See attached cost breakout and site drawing.

Total Electrical Cost: **\$10,890.00**

Sincerely,

Mark Berry

Mark Berry
Vice-President of Electrical Division

**Polson & Grady Electrical
PO Drawer 1909**

Alamogordo, New Mexico 88311-1909

Contractor's Summary

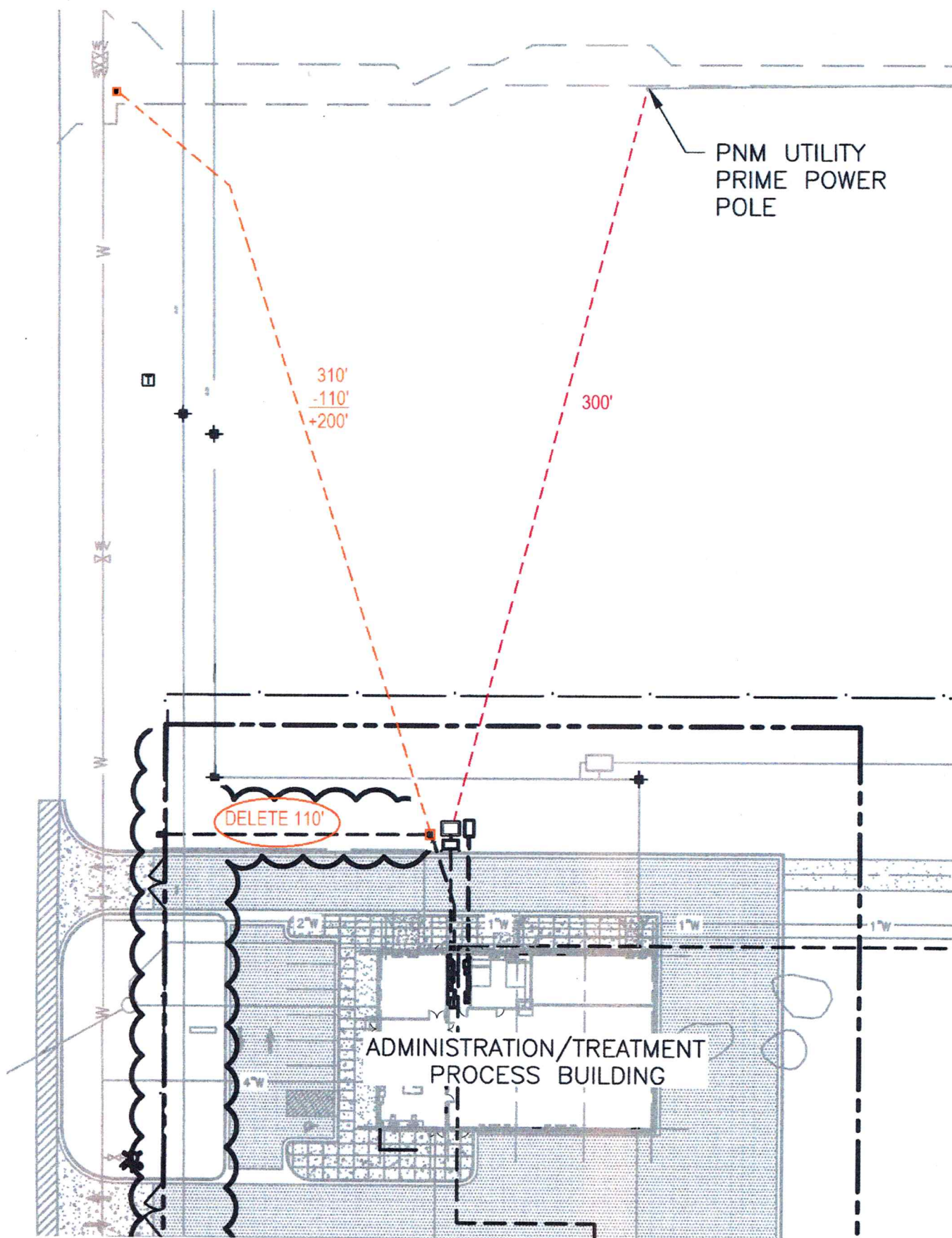
Project: 1-MGD Brackish Water

Location: Alamogordo, NM 88310

Date: November 15, 2017

Scope of Work Description:

[illegible]



AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/30/2017

Report No: 9.

Submitted By: Bob Johnson

Subject: Consider, and act upon, award of Public Works Bid No. 2017-015 to Western Builders, LLC, related to the Alamogordo WWTP: Effluent Pump Building project, in an amount not to exceed \$267,084.00, including NMGR. (*Bob Johnson, Engineering Manager*)

Fiscal Impact: \$267,084.00

Amount Budgeted: \$388,672.00

Fund: 081-9399-990.65-32 PW1711

Additional Fiscal Impact:

Recommendation: Approve the award.

Background: The work will consist of the complete demolition/removal of the existing 20'-0"X20'-0" deteriorated effluent pump metal building structure and foundation, and the installation of a new 32'-0"X50'-0" pre-manufactured metal building structure and new site cast concrete foundation. The new metal building will house the existing pumps that are to remain in place as well as an existing 12'X12' electrical building. The project will also require new electrical lighting and power, as well as the relocation of existing electrical shut-off switches and power panels to the exterior of the new metal building.

The project was advertised on October 15 and 22, 2017. Bids were opened on November 16, 2017 at 2:00 p.m. with three (3) responsive bids received: Western Builders, LLC; C&E Industrial Services, Inc.; and Highland Enterprises, Inc.

Please refer to the attached bid tabulation.

BID TABULATION
ALAMOGORDO WWTP: EFFLUENT PUMP BUILDING
PUBLIC WORKS BID NO. 2017-015
NOVEMBER 16, 2017

	QTY	UNIT	DESCRIPTION	Architect's Opinion of Probable Construction Cost		Western Builders, LLC		C&E Industrial Services, Inc.		Highland Enterprises, Inc.	
				UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT
BASE BID	1	LS	Effluent Pump Building	\$250,000.00	\$250,000.00	\$238,000.00	\$238,000.00	\$266,508.00	\$266,508.00	\$278,000.00	\$278,000.00
ADDITIVE ALTERNATE #1	1	LS	8-0' X 8-0' Roll-Up Door	\$4,000.00	\$4,000.00	\$7,000.00	\$7,000.00	\$7,775.00	\$7,775.00	\$2,681.00	\$2,681.00
ADDITIVE ALTERNATE #2	1	LS	30" X 36" Roof Hatch & Ladder	\$3,000.00	\$3,000.00	\$2,300.00	\$2,300.00	\$9,154.00	\$9,154.00	\$2,883.60	\$2,883.60
TOTAL WITHOUT NMGR					\$257,000.00		\$247,300.00		\$283,437.00		\$283,564.60
NMGR			8.00%		\$20,560.00		\$19,784.00		\$22,674.96		\$22,685.17
TOTAL WITH NMGR					\$277,560.00		\$267,084.00		\$306,111.96		\$306,249.77

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date:

Report No: 10.

Submitted By: Molly Kicklighter

Subject: Consider and act upon first publication of Ordinance 1552, creating a Separate Violation for Failure to Comply with Municipal Court Orders. (*Molly Kicklighter, Assistant City Attorney*) **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance 1552 for first publication.

Background: Ordinance number 1552 clarifies the Court's contempt power by creating a separate ordinance for each offense. This ordinance clarifies that failure to appear, pay, or comply with the Court's order is a separate offense and is charged as such. This is not a new power to the Court, but instead replaces its non enumerated indirect contempt power to give citizens more due process.

ORDINANCE NO. 1552

**AN ORDINANCE CREATING A SEPARATE VIOLATION
FOR FAILURE TO COMPLY WITH MUNICIPAL COURT ORDERS**

WHEREAS, the City Commission of the City of Alamogordo is charged with passing ordinances conducive to the welfare of the city; and

WHEREAS, the Municipal Court of the City is authorized to require compliance with Court orders in response to alleged violations of ordinances; and

WHEREAS, an ordinance would authorize the Municipal Court to issue criminal complaints and summonses upon failure to comply with court orders.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Alamogordo that a section be added to Chapter 11 of the Code of Ordinances as follows:

11-05-250. – Failure to Appear, Pay, or Comply; Separate Violation

- (a) It shall be unlawful for any person to
 - (1) fail to appear when summoned at the proper time and place to answer a charge against him;
 - (2) fail to pay any fine, fee, or cost for a violation of any ordinance within the time authorized by the court; or
 - (3) fail to comply with any court order imposed for a violation of any ordinance within the time authorized by the court.
- (b) Such conduct constitutes a separate ordinance violation punishable as a petty misdemeanor despite compliance after the deadline.

DONE this _____ day of _____, 2017.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Schreiber, City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/30/2017

Report No: 11.

Submitted By: Petria Schreiber

Subject: Consider and act upon Ordinance No. 1557 approving a local economic development project for secured financial assistance proposed by Precheck, Inc. (*Petria Schreiber, City Attorney*) **(Roll Call Vote Required)**

Fiscal Impact: \$50,000

Amount Budgeted: \$0.00

Fund: Fund 105 - Economic Development

Additional Fiscal Impact:

Recommendation: Approve Ordinance No.1557 for first publication.

Background: PreCheck is requesting a contribution of \$150,000, with \$50,000 of that money coming from the City's Local Economic Development Fund to remodel part of their building to add 30 jobs. The other \$100,000 will be coming from the State's LEDA fund, and the total amount will be secured with a performance bond.

ORDINANCE NO. 1557

APPROVING A LOCAL ECONOMIC DEVELOPMENT PROJECT FOR SECURED FINANCIAL ASSISTANCE PROPOSED BY PRECHECK, INC.,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF
ALAMOGORDO, NEW MEXICO that the following is added to the municipal code:

Pursuant to the City of Alamogordo Economic Development Plan, Ordinance No. 983 and NMSA 1978 Section 5-10-1, et seq. (Local Economic Development Act – “the Act”), the proposed economic development project of PreCheck, Inc., (“the Company”) which is on file with the City Clerk and available for public inspection, is approved for the purposes set forth in NMSA 1978 Section 5-10-1, et seq. and the City of Alamogordo is authorized to enter into a Project Participation Agreement (“The Agreement”) with the Company as required by Section 10 of the Act, and in substantially the same form as attached hereto, the terms of which are incorporation herein.

The City Commission finds as follows:

1. The Company is an entity as defined in NMSA 1978, Section 5-10-3G;
2. Under the Agreement, the Company will provide a substantive contribution for the proposed project as described in NMSA 1978, Section 5-10-10B in the form of employment and improved tax base;
3. The Agreement complies with the requirements of the Act and Ordinance No. 983;
4. The benefit of the proposed project to the City of Alamogordo is repayment of financial assistance and other benefits arising from employment

and economic activity under the project which exceeds the cost to the City of providing to the Company the assistance specified in the agreement, and

5. The Agreement complies with the requirements of Section 10 of the Act and is hereby adopted and approved.

BE IT FURTHER ORDAINED, that the Mayor of the City of Alamogordo, New Mexico is authorized and directed to do all things necessary to implement this ordinance that is lawfully adopted.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2017.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Schreiber, City Attorney

CITY OF ALAMOGORDO
ECONOMIC DEVELOPMENT
PROJECT PARTICIPATION AGREEMENT

THIS PROJECT PARTICIPATION AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2017 by and between the City of Alamogordo, a municipal corporation (hereinafter referred to as the “City”) and PreCheck, Inc. (hereinafter referred to as “PreCheck”) in accordance with the Local Economic Development Act (N.M.S.A. §5-10-1 et. seq. (1978) and City Ordinance 983 adopted August 13, 1996, in order to complete an economic development project associated with physical improvements to the facility located at 3453 Las Palomas Road, Alamogordo, New Mexico, 88310 (hereinafter referred to as “Project”).

1. CONTRIBUTIONS OF THE CITY, THE STATE AND PRECHECK

A. Contributions of the State and the City. The maximum grant monies that may be disbursed under this agreement shall be one hundred fifty thousand dollars (\$150,000) from both the State and the City combined, as described below:

(1) City Contribution. The City will serve as fiscal agent pursuant to the Intergovernmental Agreement between the City and State and the City will contribute fifty thousand dollars (\$50,000) to the project.

(2) State Contribution: This Agreement governs the State's contribution of One-Hundred Thousand Dollars (\$100,000) from the New Mexico LEDA Fund administered through the New Mexico Economic Development Department.

(3) Disbursement of Grant Monies: Dispersal of the NM LEDA Funds by the State and the City are contingent upon the following:

(a) The City and the New Mexico Economic Development Department shall execute an intergovernmental agreement for the State to grant \$100,000 to the City as fiscal agent for the Project; and

(b) PreCheck shall submit to the City for review, a cover letter, invoice and supporting documentation of the completion of each Project phase:

(i) Renovation of PreCheck’s current facility to accommodate a total of no less than thirty (30) additional workers; and

(ii) PreCheck’s cover letter shall state the amount of the financial investment PreCheck has contributed to the Project, as indicated by supporting documentation.

(c) The City shall reimburse to PreCheck the Grant Monies not to exceed \$150,000 within a reasonable time after the City’s review and acceptance that the Project has been completed to the satisfaction of the City. If the Grant Monies from the City and State do not

fully fund the Project; the Qualifying Entity shall contribute any additional funds necessary to fund the remainder of the Project.

B. Contributions of PreCheck.

(1) Financial Investment: PreCheck shall contribute Two Hundred Fifty Thousand (\$250,000) or more in matching funds for facility improvements to complete the Project.

(2) Project Management: Unless otherwise specified in this Agreement, PreCheck shall be responsible for managing all parts of the Project.

(3) Jobs Creation: The improvements to the facilities is anticipated to create 30 jobs over the course of the next three years.

(4) Full-Time Equivalent Direct Employment: Within three years after the date of this Agreement, PreCheck will have created 30 direct full-time equivalent employment jobs, which must be retained for at least one year, and meet the schedule of job creation and minimum average wages pursuant to the Job Creation Schedule. See **Attachment "A"**.

(3) Expanded Tax Base: As a result of the completion of the Project, PreCheck will generate contributions to the City's tax base, as enumerated in the Economic Impact Report. Annual tax revenues for the City generated by this Project (including property taxes, gross receipts taxes, utility fees, utility franchise fees, lodger's taxes and other use taxes) are estimated.

(4) Proportional Investment: PreCheck, at its discretion, may decide to not accept the entire \$150,000 in grant monies for the Project. If the entire granted monies are not accepted, the capital investment and job creation requirements would then decrease proportionally to the level of grant monies accepted. PreCheck shall notify the City 30 days prior to its decision.

2. PERFORMANCE REVIEW AND CRITERIA

A. Economic Development Goals. The following Project and Economic Development Goals shall be fulfilled:

(1) By the end of the year 2018, after completion of the renovations of the facilities, PreCheck shall employ at least seven (7) new full-time equivalent employees in the City, while retaining the prior employment, and in accordance with the minimum average wage in the Job Creation Schedule. See **Attachment "A"**.

Example: By the end of the year 2019, PreCheck will have at least seventeen (17) new full-time equivalent jobs: at least ten (10) of those new jobs will have been created that same year, and at least seven (7) new jobs will have been retained from the prior year, and the remaining one hundred eighty two (182) jobs that had existed prior to entering into this agreement will also have been retained. The

seventeen (17) new full-time equivalent jobs shall have a minimum average wage of \$27,040 per year.

(2) By the end of the year 2020, PreCheck shall employ a total of no fewer than thirty (30) new full-time equivalent production employees in the City of Alamogordo, while retaining the prior employment figures, in accordance with the minimum average wage data points in the Job Creation Schedule.

(3) PreCheck's contribution as set forth in Paragraph 1.B herein, is incorporated into the Economic and Development Goals.

(4) If any Economic Development Goal set forth in Paragraph 2.A is not met in a manner deemed satisfactory by the City, the City shall within 30 days send a written Notice of Default informing PreCheck how many days it has to cure the default or repay the Grant Monies expended in proportion to the Economic Development Goals not yet achieved. If PreCheck has not documented to the City's satisfaction that the default has been cured or repaid by that time, the City may elect to foreclose on the security interest and terminate this Agreement.

B. Reports; Certifications; Review.

(1) Reporting. During the term of this Agreement, PreCheck shall provide to Otero County Economic Development Commission staff quarterly reports proving the job creation requirements in **Attachment A** have been met, and the taxes generated and other indices contained in the Economic Impact Report. Quarterly reports shall be in the form of an affidavit signed by an officer of PreCheck. Quarterly reports shall include a copy of FORM ES-903 provided by PreCheck to the City, which have been filed with the New Mexico Department of Workforce Solutions, to demonstrate compliance with this Agreement at each review cycle. The quarterly report shall include number of jobs and the average wage of the new employees. The City's review of the biannual reports shall determine whether PreCheck is in compliance with this Agreement and is substantially achieving the goals and objectives herein.

(2) Annual Reports. The City may require PreCheck to provide annual reports to the City's governing body. The City will give PreCheck a minimum of 30 days' notice if reports to the governing body is required. City staff shall review these reports to ensure PreCheck's compliance with this Agreement in accordance with the Job Creation Schedule.

(3) Expanded Tax Base Report: Within a reasonable time after completion of the construction of the facilities, but in any event by the next biannual report, PreCheck shall provide to the City a written report on the construction jobs and wages created and the economic impacts thereof.

(4) Certification of Non-Interest. PreCheck shall certify to the City that no member, officer, or employee of the City or its designees or agents, no member of the governing body of the locality of which the program is situated, and no other public official that exercises any functions or responsibilities with respect to the Project during his/her tenure, or for one year

thereafter, has any interest, direct or indirect, in PreCheck or any contract or subcontract, or the process thereof, for work to be performed in connection with the Project that is the subject of this Agreement. PreCheck shall certify that such a provision shall be included in all contracts and subcontracts in connection with the Project.

D. Documentation of Completion of Construction Phases: Within a reasonable time after completion of each phase listed in Paragraph 1.A (3) (b) herein, PreCheck shall provide documentation of its completion to the Otero County Economic Development Commission. PreCheck shall provide documentation to the City that construction of the facilities was completed by January 31, 2019. See Construction Schedule, attached as **Attachment “B”**.

3. RECAPTURE PROVISIONS FOR PUBLIC MONEYS

A. In the event that, by the end of year three (3) after necessary renovation of the facilities is complete, PreCheck has employed less than thirty (30) new full-time equivalent employees in the City, they shall be deemed to be in default (“Default”), and within 60 days of the City receiving the biannual report with information of such default, the City shall send a written Notice of Default informing PreCheck how many days it has to cure the default or repay the Grant Monies expended, in proportion to the Economic Development Goals not yet achieved. If PreCheck remains noncompliant after any applicable cure period, then the City may elect to pursue any and all remedies available in law or equity, including but not limited to initiating foreclosure of the security interest or demanding timely repayment of the Grant Monies in proportion to the unmet goals, as the City in its sole discretion may determine subject to reasonable calculations.

B. In the event PreCheck ceases operations and closes its facility before the end of year three of this Agreement, they shall be deemed in Default shall reimburse 100% of all Grant Monies in the amount of One Hundred Fifty Thousand Dollars (\$150,000) to the City of Alamogordo Economic Development Fund.

C. If PreCheck is still in business by 2022 and has employed thirty new full-time equivalent production employees for the immediately prior six (6) month period in accordance with the minimum average wage requirement in **Attachment “A”** while retaining the prior employment figures, there shall be no repayment obligations to the City and the State. PreCheck has until 5 years from the date of the Agreement to complete its obligations to the City and State.

4. QUALIFYING ENTITY BUYOUT

PreCheck may, at its election, buyout and thereby terminate this Agreement by repaying in full to the City all Grant Monies. Such repayment shall be without penalty until and unless the City initiates clawback of the Grant Monies, at which point costs, expenses (including City staff time) and attorney’s fees will accrue to the repayment amount.

PreCheck must send prior written notice to the City of its intent to repay in full the Grant Monies at least 45 days prior to the repayment. The City’s receipt of the repayment of all disbursed Grant Monies (including any costs, fees and expenses resulting from clawback

proceedings) constitutes satisfaction under this Agreement, upon which PreCheck may request release of the security interest, and the City will release the security interest within a reasonable time after receiving the written request.

Within 30 days of receiving such notice from PreCheck, the City will notify the New Mexico Economic Development Department of the intent to exercise the buyout clause. The City will reimburse the New Mexico Economic Development Department its portion of the repaid Grant Monies within 60 days after the City receives the repaid monies from the buyout.

5. SECURITY FOR CITY'S INVESTMENT; CLAWBACK

This is a grant project only, with the City acting as fiscal agent. PreCheck has no loan obligations for repayment to the City or State, but is obligated to fulfill the Economic Development Goals of this Agreement, however if PreCheck is found by the City to be in default, then the City may elect to demand financial reimbursement.

A condition precedent to this PPA is securitization of the Grant Monies which may be clawed back if PreCheck fails to meet its performance goals under this PPA. As security for fulfilling the Economic Development Goals, before the City may disburse any appropriations, the amount of Public Monies to be reimbursed shall be securitized in a manner satisfactory to the City. The expected securitization method is a performance bond from an insurance company or issuing financial institution, with the City as beneficiary, which the City may foreclose after the City's presentation of a demand for payment and evidence of PreCheck's default. This Performance Bond shall extend to at least ninety days after the fifth year this Agreement is entered into (the Project Period), plus additional automatic one-year extensions terminable at the sole option and discretion of the City. At any given time, the Performance Bond must secure an amount, and the City shall be able to draw down an amount, at least equal to the amount of appropriations made for the Project, the maximum being \$150,000. Funds from the Performance Bond may be drawn in one drawing or from time-to-time in or one or more partial drawings on or before the expiration date.

During the term of this Agreement, PreCheck may request a full or partial release of the Performance Bond by the substitution of collateral, repayment of the disbursed appropriation or proof that they have met the Contribution and Economic Development Goals, in part or in whole, under this Agreement. Any full or partial release of the Performance Bond will be proportional to the value of the substitute collateral, repayment or the portion of Economic Development Goals met. Acceptance of substitute collateral or proof of performance goals shall be within the City's sole and absolute discretion.

If PreCheck exceeds the employment goal of two hundred twelve (212) full-time equivalent employees for a six (6) month period subsequent to June, 30, 2020, it may petition for release of the security, which permission shall not unreasonably be withheld.

6. TERM; SUNSET

This Agreement shall remain in force for 5 years from the execution date of the Agreement, or until conditions of the Agreement are performed in full or to the satisfaction of the City, whichever is earlier. In the event PreCheck performs or exceeds the required performance levels contained in this Agreement, as may be determined by the City, this Agreement may be terminated at that time in writing by the City pursuant to Paragraph 7, below.

This Agreement will not be deemed terminated and this Agreement will remain in effect unless and until the City determines that the objectives under this Agreement have been fulfilled and a closure letter by the City is provided to PreCheck.

7. **TERMINATION**

This Agreement may be terminated by the City upon written notice delivered to PreCheck at least 45 days prior to the intended date of termination in the event that PreCheck ceases to operate the Project in accordance with the terms of this Agreement. If PreCheck is found to not be in substantial compliance with the Agreement, the City reserves the right to terminate the Agreement and recall in full the Grant Monies.

PreCheck may terminate the Agreement by pre-paying in full to the City and without penalty any Grant Monies disbursed. Notice of intent to pre-pay the Grant Monies must be delivered in writing within 45 days prior to the intent to repay in full the Grant Monies

7. **STATUS OF THE QUALIFYING ENTITY**

PreCheck, and its agents and employees are not employees of the City, and shall not accrue leave, retirement, insurance, bonding, use of City vehicles or any other benefits afforded to employees of the City as a result of this Agreement. PreCheck shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

8. **ASSIGNMENT AND SUCCESSORS; BINDING EFFECT**

- A. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest by way of merger, acquisition, or otherwise and their permitted assigns.
- B. PreCheck shall not assign or transfer any of its rights, privileges, obligations or other interest under this Agreement, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law or any other matter, including any claims for money due or to become due under this Agreement, without the prior written approval of the City.
- C. Any purported assignment of rights in violation of subsection (B) is void.

10 INDEMNIFICATION; LIABILITY

It is expressly understood and agreed by and between PreCheck and the City that PreCheck shall defend, indemnify and hold harmless the City for all losses, damages, claims or judgments on account of any suit, judgment, execution, claims, actions or demands whatsoever resulting from PreCheck's actions or inactions as a result of this Agreement, as well as the actions or inactions of PreCheck's employees, agents, representatives and subcontractors. The qualifying entity shall maintain adequate insurance in at least the aggregate maximum amounts which the City could be liable consistent with the provisions of the New Mexico Tort Claims Act. It is the sole responsibility of PreCheck to be in compliance with the law.

11. **INSURANCE**

A. PreCheck, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City shall be notified no less than 30 days in advance of cancellation for any reason. PreCheck shall furnish the City with a copy of a "Certificate of Insurance" as a condition prior to performing under this Agreement.

B. PreCheck shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for their employees throughout the term of this Agreement and shall provide the City with evidence of its compliance with such requirement.

12. **NEW MEXICO TORT CLAIMS ACT**

Any liability incurred by the City of Alamogordo in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

13. **THIRD PARTY BENEFICIARIES**

By entering into this Agreement the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and PreCheck. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

14. **RECORDS AND AUDITS**

PreCheck shall maintain throughout the term of this Agreement and for a period of six years thereafter, all related records, including but not limited to, all financial records, requests

for proposals (RFPs), invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted hereunder, the purpose for which such funds were used, and other such records as the City or the State shall proscribe. PreCheck shall be strictly liable for receipts and disbursements related to the Project Grant Monies. These records shall be subject to inspection by the City, the New Mexico Economic Development Department, and the State Auditor upon request. The City shall have the right to audit billings both before and after payment; payments under this Agreement shall not foreclose the right of the City to recover excessive illegal payments.

15. **APPROPRIATIONS**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Governing Body and the New Mexico Economic Development Department on behalf of the qualifying entity to the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Governing Body and the New Mexico Economic Development Department on behalf of PreCheck to the City, this Agreement shall terminate upon written notice being given by the City to the qualifying entity.

16. **RELEASE**

PreCheck, upon final fulfillment of this Agreement, releases the City, its officers and employees, from all liabilities, claims, and obligations whatsoever arising from or under this Agreement and agrees not to purport to bind the City to any obligation not assumed herein by the City unless PreCheck has express written authority to do so, and then only within the strict limits of that authority.

17. **CONFIDENTIALITY**

Any confidential information provided to or developed by PreCheck in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization without the prior written approval of the City.

18. **CONFLICT OF INTEREST**

PreCheck warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement and further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

19. **APPLICABLE LAW; CHOICE OF LAW; VENUE**

PreCheck shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Alamogordo. In any action, suit or legal dispute arising from this Agreement, the qualifying entity agrees that the laws of the State of New

Mexico shall govern. The Parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

20. **AMENDMENT**

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

21. **SCOPE OF AGREEMENT**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said performance. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

22. **REPRESENTATIONS AND WARRANTIES**

A. PreCheck hereby warrants it is and will remain in compliance with the Americans with Disabilities Act, 29 CFR 1630 and hereby agrees to defend, indemnify and hold harmless the City from and against all claims, suits, damages, costs, losses and expenses in any manner arising out of or connected with the failure of PreCheck, its contractors and subcontractors, agents, successors, assigns, officers or employees to comply with provisions of the ADA or the rules and regulations promulgated there under the Americans with Disabilities Act, 29 CFR 1630.

B. PreCheck agrees to comply with the applicable provisions of local, state and federal equal employment opportunity statutes and regulations.

23. **APPLICABLE LAW**

This Agreement shall be governed by the ordinances of the City of Alamogordo and the laws of the State of New Mexico.

24. **NON-DISCRIMINATION**

During the term of this Agreement, PreCheck shall not discriminate against any employee or applicant for an employment position to be used in the performance hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

25. **SEVERABILITY**

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

26. **NOTICES**

Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

If to the CITY OF ALAMOGORDO:
City of Alamogordo
1376 E. Ninth St.
Alamogordo, NM 88310

If to the OTERO COUNTY ECONOMIC DEVELOPMENT COUNCIL:
Otero County EDC
2400 N. Scenic Dr.
Alamogordo, NM 88310

If to QUALIFYING ENTITY:
PreCheck
3453 Las Palomas Road
Alamogordo, NM 88310

27. **HEADINGS**

The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

28. **ATTACHMENTS**

All attachments are fully incorporated herein and made a part of this Agreement.

29. **COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

30. **REPRESENTATION ON AUTHORITY OF SIGNATORIES**

The signatory for PreCheck represents and warrants that he or she is duly authorized and as legal capacity to execute and deliver this Agreement and represents and warrants that the execution and delivery of the Agreement and the performance of PreCheck's obligations

hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF ALAMOGORDO:

Maggie Paluch, City Manager

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Schreiber, City Attorney

QUALIFYING ENTITY:
PreCheck, Inc.

By: _____

Employer ID Number: _____
City of Alamogordo Business ID Number: _____

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/30/2017

Report No: 12.

Submitted By: PR Task Force

Subject: Consider and act upon Resolution No. 2017-37 to contribute the additional \$203,600 to OCDEC regarding a PR Task Force Letter. (*Petria Schreiber, City Attorney*) **(Roll Call Vote Required)**

Fiscal Impact: \$203,600.00

Amount Budgeted: \$203,600.00

Fund: 105-2401-450.56-95

Additional Fiscal Impact:

Recommendation: Approve Resolution No. 2017-37 to contribute the additional \$203,600 to OCDEC.

Background: NMSA 5-10-4(B)(2) allows for the spending of Local Economic Development Act dollars in an amount no greater than \$50,000 or 10% of the revenue collected for promotion and administration of professional services contracts related to the implementation of any such economic development plan. Traditionally, the City has spent less than the full 10% each year, and the PR Task Force is asking for the City to contribute \$203,600, which represents the difference between what could have been given to OCDEC annually, and what has been given to OCDEC, since the inception of LEDA. These dollars will specifically be used to help the HK Advertising campaign that the PR Task Force has initiated.



**Otero County Economic Development
Council, Inc**

2400 N. Scenic Drive
Alamogordo, NM 88310
(575) 439-3688
www.ocedc.com

November 7, 2017

Maggie Paluch

City Manager

City of Alamogordo

Ms. Paluch

As you know the New Mexico Local Economic Development Statute 5-10 allows for the greater of \$50,000 or 10 percent of the annual tax revenue collected by the Municipal Local Option Gross Receipts Taxes Act to be spent on "promotion and administration of or professional services contracts related to the implementation of any such economic development plan". Pursuant to this, the City of Alamogordo has paid annual sums to Otero County Economic Development Council (OCEDC) for marketing and promoting the City's economic development plan. In the years since the tax was imposed the City has not spent the maximum amount allowable under the statute for these promotional services.

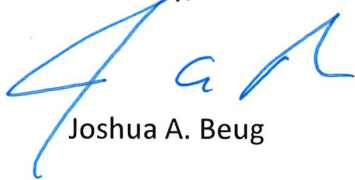
It is our understanding that the City has calculated the difference between what could have been spent for promotional services, and what was actually spent for promotional services during this time period, and that difference is equal to approximately \$203,600.



We therefore request that the City authorize the expenditure of the \$203,600, and that money be paid to OCEDC for promotional services. These funds will be specifically used by our Public Relations Task Force to promote Alamogordo, thereby increasing job opportunities in Alamogordo.

This request is timely in that there are several job creation opportunities occurring in Alamogordo that we can positively affect with our promotion efforts. OCEDC has already committed \$100,000 of private funds to be spent on this Public Relations project. That money is nearly spent, so time is of the essence.

Sincerely,



Joshua A. Beug

Chairman

Otero County Economic Development Council



ANALYSIS OF OCEDC PAYMENTS

ECON DEV GRT					
FISCAL YEAR	RECEIVED	10% of GRT	OCEDC PMT	DIFFERENCE	
2017	\$ 803,457.18	\$ 80,345.72	\$ 70,000.00	\$	10,345.72
2016	\$ 803,237.88	\$ 80,323.79	\$ 70,000.00	\$	10,323.79
2015	\$ 756,639.91	\$ 75,663.99	\$ 70,000.00	\$	5,663.99
2014	\$ 730,479.61	\$ 73,047.96	\$ 70,000.00	\$	3,047.96
2013	\$ 760,802.29	\$ 76,080.23	\$ 70,000.00	\$	6,080.23
2012	\$ 760,620.60	\$ 76,062.06	\$ 70,000.00	\$	6,062.06
2011	\$ 776,306.63	\$ 77,630.66	\$ 70,000.00	\$	7,630.66
2010	\$ 722,761.42	\$ 72,276.14	\$ 50,000.00	\$	22,276.14
2009	\$ 720,159.76	\$ 72,015.98	\$ 56,396.75	\$	15,619.23
2008	\$ 751,301.79	\$ 75,130.18	\$ 43,603.27	\$	31,526.91
2007	\$ 720,116.35	\$ 72,011.64	\$ 50,000.01	\$	22,011.63
2006	\$ 710,829.16	\$ 71,082.92	\$ 50,000.00	\$	21,082.92
2005	\$ 648,199.82	\$ 64,819.98	\$ 50,000.00	\$	14,819.98
2004	\$ 608,213.32	\$ 60,821.33	\$ 49,999.99	\$	10,821.34
2003	\$ 545,873.90	\$ 54,587.39	\$ 50,000.00	\$	4,587.39
2002	\$ 539,442.22	\$ 53,944.22	\$ 42,243.23	\$	11,700.99
2001 (Jan-Jun)	\$ 167,088.86	\$ 16,708.89	\$ 16,708.89	\$	(0.00)
TOTALS	\$ 11,525,530.70	\$ 1,152,553.07	\$ 948,952.14	\$	203,600.93

RESOLUTION NO. 2017-37

A RESOLUTION GRANTING A ONE TIME PAYMENT TO OTERO COUNTY ECONOMIC DEVELOPMENT COUNCIL FOR THE PURPOSES OF PROMOTING ECONOMIC DEVELOPMENT

WHEREAS, the governing body of the City of Alamogordo is interested in developing the economy of the region through new businesses and jobs; and,

WHEREAS, the City of Alamogordo adopted its economic development plan in compliance with the Local Economic Development Act, NMSA Chapter 5, Article 10, by Ordinance Number 983 approved August 13, 1996; and,

WHEREAS, the City of Alamogordo does further find that NMSA Chapter 5, Article 10, Section 4(B)(2) allows for an amount equal to no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected to be used for promotion and administration of or professional service contracts related to the implementation of any such economic development plan; and,

WHEREAS, the City of Alamogordo does further find that an existing contract for promotion and administration does exist with the Otero County Economic Development Council (hereinafter OCEDC) and through that contract less than the full ten percent of the revenue collected has been expended each year since the inception of the tax established in 1996 to fund the economic development plan; and,

WHEREAS, an attached review of the records of the revenue collected finds that a total of two hundred three thousand, six hundred dollars (\$203,600) remaining available for the purposes contemplated by NMSA 5-10-4(B)(2); and,

WHEREAS, OCEDC, through their Public Relations Taskforce, is currently undertaking a promotion campaign with HK Advertising to promote the business and citizen friendly environment of Alamogordo to advance economic development and the City of Alamogordo wishes to assist in that endeavor.

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

That the City of Alamogordo shall provide the Public Relations Taskforce, through OCEDC, a one-time payment of \$203,600, which is separate from the annual contract between the City of Alamogordo and OCEDC, for the specific purpose of assisting to fund the promotion campaign with HK Advertising to promote the economic development of Alamogordo.

PASSED, APPROVED AND ADOPTED, this ____ day of December, 2017.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard A. Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Schreiber, City Attorney

Come For
Adventure
Stay For Life
Alamogordo, New Mexico



Alamogordo is
NEW MEXICO *True*

**PLACE BRANDING =
PLACE MAKING +
PLACE MARKETING**

Brand Positioning



Brand Identity



Brand Integration

ALL ELEMENTS DRIVE THE COMMUNITY BRAND



ALAMOGORDO ENHANCEMENT PROJECT

ALAMOGORDO ENHANCEMENT PROJECT GOALS

- Work together to grow the economy and create jobs
- Convert the F16 project to a permanent status
- Set Alamogordo up for future job and business growth
- Improve the reputation of Alamogordo
- Enhance the experiences and services of Alamogordo for job growth

Show people that Alamogordo is a great place to Live, Work, Play and Stay.

ALAMOGORDO ENHANCEMENT PROJECT – TO DATE

- Acquired www.alamogordojobs.com
- Completed website
- Produced video for home page of website
- Created Facebook page
- Posted updates / display ads on Facebook
- Conducted stakeholder interviews
- Completed focus groups
- Compiled survey for military and general public
- Completed Secondary research
- Worked on brand positioning – 60% Complete
- Created digital campaign
- Placed targeted digital schedule
- Distributed press releases
- Developed Powerpoint presentations
- Created hand-outs of talking points

Show people that Alamogordo is a great place to Live, Work, Play and Stay.

Website Results



August 27 – October 31, 2017

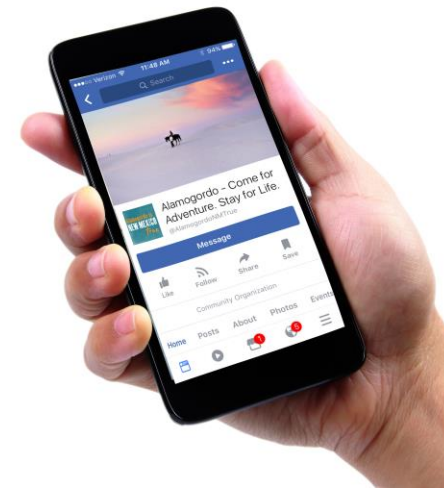
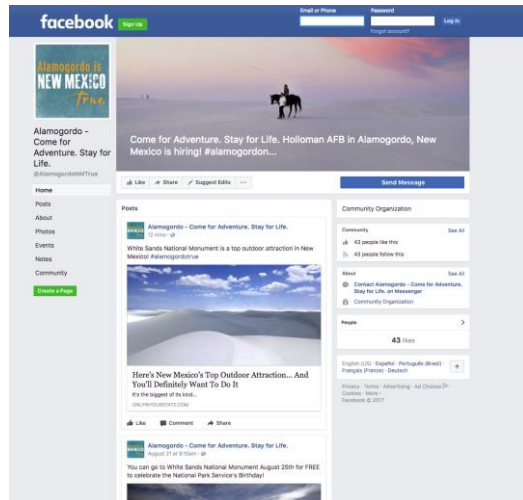
- 13,188 Sessions
- 53,251 Pageviews
- Top Responding Cities – Targeted for recruiting
 - Phoenix
 - Los Angeles
 - Hampton
 - Virginia Beach
 - Salt Lake City
 - Las Vegas
 - Glendale

SOCIAL MEDIA



CONNECT WITH US!

- Create a dynamic Facebook page
- Central source to share information
- Post positive articles and feedback
- Facebook: Alamogordo - Come for Adventure. Stay for Life.
- Instagram: AlamogordoNMTrue
- Share information with Facebook: 49th Wing page





Alamogordo
Enhancement Project

August 25, 2017

Survey Analysis



NEXT STEPS

- Complete final positioning
- Create Brandline
- Design brand identity
- Begin brand integration
- Reboot Website/Facebook
- Digital placement
 - Local
 - Targeted Outreach

Thank You

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/30/2017

Report No: 13.

Submitted By: Rachel Hughs

Subject: Consider, and act upon, Resolution No. 2017-38 Declaring that a vacancy exists in the Office of District 6 City Commissioner and calling for a Special Election to fill the vacancy. *(Rachel Hughs, City Clerk)* **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve Resolution No. 2017-38.

Background:

Due to the resignation that Commissioner Martin tendered on November 30, 2017, with an effective date of December 20, 2017, per the requirements of the City Charter, it is necessary to call a special election to fill her unexpired term. The process requires the City Commission to accept her resignation, declare that a vacancy will exist in the Office of the District 6 City Commissioner, and call for a special election to fill the unexpired term. The special election will be held in conjunction with March 6, 2018 regular election.

RESOLUTION NO. 2017-38

RESOLUTION DECLARING THAT A VACANCY EXISTS IN THE OFFICE OF DISTRICT 6 CITY COMMISSIONER AND CALLING FOR A SPECIAL ELECTION TO FILL THE VACANCY

WHEREAS, Article VI, Section 3.B of the Alamogordo City Charter provides that if a vacancy occurs in the office of the Commission before the completion of one-half of the incumbent's term, the Commission shall call a special election under Article V to fill the vacancy after declaring by resolution that a vacancy exists; and

WHEREAS, on November 30, 2017, Commissioner Erica Martin submitted her resignation effective December 20, 2017, prior to the completion of one-half of her term.

NOW THEREFORE BE IT RESOLVED THAT the Alamogordo City Commission, pursuant to the provisions of the City Charter, do hereby accept the resignation of the incumbent Commissioner to be effective December 20, 2017.

BE IT FURTHER RESOLVED THAT, that the City Commission, pursuant to the provisions of the City Charter, do hereby declare that the Office of the Commissioner shall be vacant on such date, a date that is prior to the completion of one-half of the incumbent's term.

BE IT FURTHER RESOLVED THAT, that the City Commission having declared that a vacancy will exist in the Office of the Commissioner, hereby calls for a special election for the City of Alamogordo, New Mexico to be held in conjunction with the regular municipal election scheduled for March 6, 2018, for the purpose of filling the vacancy for the remainder of the unexpired term.

Date and Time of the Closing of the Registration Books by the County Clerk.

Persons desiring to register to vote at the Special Election must do so with the Otero County Clerk not later than 5:00 p.m. on Tuesday, February 6, 2018, the date on which the County Clerk will close the registration books. Since the registered voters within the boundaries of Districts 2, 4, and 6 will elect City Commissioners, it is particularly important for voters to be registered at the address where they presently reside.

Location of Polling Places and Consolidation of Precincts.

The polls for the Special Election will be opened at 7:00 a.m. Mountain Standard Time on Tuesday, March 6, 2018 and will be closed at 7:00 p.m. Mountain Standard Time on the same day. Precincts shall be consolidated and the following locations have been designated as polling places:

CONSOLIDATED PRECINCTS

Districts 1 – 6

POLLING PLACES

Otero County Fairgrounds
Extension Office Meeting Room
401 Fairgrounds Road

Districts 1 – 6

Sgt. Willie Estrada Memorial Civic Center
800 East 1st Street

Districts 1 – 6

Tays Special Events Center
2235 North Scenic

Absentee

City Clerk's Office
1376 E. Ninth Street

Date and Time of Absentee Voting.

Applications for absentee ballots may be obtained only from the office of the Municipal Clerk. All applications for an absentee ballot must be completed and accepted by the Municipal Clerk prior to 5:00 p.m., March 2, 2018. After 5:00 p.m. on March 2, 2018, all unused absentee ballots will be publicly destroyed by the Municipal Clerk. The Municipal Clerk will accept completed absentee ballots delivered by mail, or in person by the voter casting the absentee ballot, by a member of the voter's immediate family, or by the caregiver to the voter until 7:00 p.m. on March 6, 2018.

Absentee Voting. Absentee ballots may be issued/mailed to voters in the office of the Municipal Clerk during the regular hours and days of business, beginning on Tuesday, January 30, 2018, and closing at 5:00 p.m. on Friday, March 2, 2018.

Early Voting. Early voting on paper ballots counted by the Dominion electronic vote tabulator will be conducted in the office of the Municipal Clerk beginning on Wednesday, February 14, 2018 and closing at 5:00 p.m. on Friday, March 2, 2018.

Absentee & Early voting will be conducted in the office of the City Clerk at City Hall, 1376 E. Ninth Street, during regular business hours, which are Monday through Friday, 8:00 a.m. to 5:00 p.m. There will be voting during the noon hour.

BE IT FURTHER RESOLVED THAT this Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this 5th day of December, 2017, by the Governing Body of the City of Alamogordo.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard Boss, Mayor

ATTEST:

APPROVED AS TO FORM:

Rachel Hughs, City Clerk

Petria Schreiber, City Attorney

RESOLUCION NO. 2017-38

RESOLUCION DECLARANDO QUE UNA VACANTE EXISTE EN LA OFICINA DE COMISIONADO DISTRITO 6 Y LLAMA UNA ELECCION ESPECIAL PARA LLENAR LA VACANTE

CONSIDERANDO, que el artículo VI, sección 3.B de la Carta de la Ciudad de Alamogordo establece que si se produce una vacante en la oficina del Comisionado antes de la finalización de la mitad del mandato del titular, la Comisión convocará a una elección especial en virtud del artículo V para llenar la vacante después de declarar en la resolución que existe una vacante; y

CONSIDERANDO que, el 30 de noviembre de 2017, el Comisionado Erica Martin presentó su renuncia efectiva de 20 de diciembre, 2017, antes de la finalización de la mitad de su mandato.

POR LO TANTO SE RESUELVE QUE la Comisión Municipal de Alamogordo, en virtud de las disposiciones de la Constitución de la Ciudad, por la presente acepta la dimisión del Comisionado sea eficaz de 20 de diciembre, 2017.

SE RESUELVE QUE, que la Comisión de la Ciudad, de conformidad con las disposiciones de la Constitución de la Ciudad, por la presente declaro que la Oficina del Comisionado estará vacante en dicha fecha, una fecha que es anterior a la finalización de la mitad del titular de término.

SE RESUELVE QUE, que la Comisión de la Ciudad de haber declarado que exista una vacante en la Oficina del Comisionado, por este medio pide una elección especial para la ciudad de Alamogordo, Nuevo México, que se celebrará conjuntamente con la elección municipal regular programada para el 6 de marzo 2018, con el propósito de llenar la vacante para el resto del término no vencido.

Fecha y hora del cierre de los libros de registro por el Escribana del Condado.

Las personas que deseen registrarse para votar en la Elección Especial deben hacerlo con el Secretario del Condado de Otero no antes de las 5:00 pm del Martes, 6 de febrero 2018, la fecha en que el Secretario del Condado cerrará los libros de registro. Desde los votantes registrados dentro de los límites de los Distritos 2, 4, y 6 elegirán Comisionados de la Ciudad, es particularmente importante para los votantes que se registraren en el domicilio donde actualmente residen.

Ubicación de Centros de Votación y Consolidación de Recintos.

Las encuestas para la Elección Especial se abrirán a las 7:00 am hora estándar de la montaña en Martes, 6 de marzo 2018 y se cerrarán a las 7:00 pm hora estándar de la montaña en el mismo día. Precintos se consolidarán y los siguientes lugares han sido designados como lugares de votación:

CONSOLIDADO recintos

Distritos 1-6

CASILLAS ELECTORALES

Otero County Fairgrounds
Extensión Oficina Sala de reuniones
401 Fairgrounds carretera

Distritos 1-6

Sgt. Willie Estrada Memorial Centro Cívico
800 East 1st Street

Distritos 1-6

Tays Special Events Center
2235 Norte Escénica

Ausente

La Oficina del Secretario de la Ciudad
1376 E. Ninth Street

Fecha y hora de Voto Ausente.

Las solicitudes de boletas en ausencia se pueden obtener sólo de la oficina del Secretario Municipal. Todas las solicitudes de un voto en ausencia deben ser completados y aceptados por el Secretario Municipal antes de las 5:00 de la tarde, 2 de marzo de 2018. Después de las 5:00 pm el 2 de marzo de 2018, todas las boletas no utilizadas serán destruidas públicamente por el Secretario Municipal. El Secretario Municipal aceptará boletas en ausencia completadas entregadas por correo, o en persona por el votante que emite su voto en ausencia, por un miembro de la familia inmediata del elector, o por el cuidador al votante hasta las 7:00 pm el 6 de marzo, de 2018.

Votación Ausente. Los votos por correo se pueden emitir / enviado por correo a los votantes en la oficina del Secretario Municipal, durante las horas y días hábiles, comenzando el martes 30 de enero de 2018 y el cierre a las 5:00 pm del viernes, 2 de marzo 2018.

Votación Temprana. La votación anticipada en boletas de papel contados por el Dominio tabulador electrónico se llevará a cabo en la oficina del Secretario Municipal a partir del Miércoles, 14 de febrero 2018 y el cierre a las 5:00 pm del Viernes, 2 de marzo 2018.

Ausente y La votación anticipada se llevará a cabo en la oficina del Secretario Municipal en el Ayuntamiento, 1376 E. Ninth Street, en horario de oficina, que son de lunes a viernes, de 8:00 am a 5:00 pm Habrá votaciones durante la hora de mediodía.

SE RESUELVE ADEMÁS que esta resolución entrará en vigencia inmediatamente después de su adopción.

PASADO, aprobado y adoptado este día 5 de diciembre de 2017, el Consejo de Administración de la Ciudad de Alamogordo.

CIUDAD DE Alamogordo, Nuevo MEXICO
una corporación municipal de Nuevo México

Por: _____
Richard Boss, Alcalde

DOY FE:

APROBADO EN FORMA:

Rachel Hughs, Secretaria Municipal

Petria Schreiber, Abogada de la Ciudad

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/30/2017

Report No: 14.

Submitted By: Rachel Hughs

Subject: Consider and act upon Resolution No. 2017-35 calling a Regular Election to be held on Tuesday, March 6, 2018 for the purpose of electing a Mayor at Large, two (2) District City Commissioners, and a Municipal Judge. *(Rachel Hughs, City Clerk)* **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve Resolution No. 2017-35.

Background: As required by law, the City Commission must adopt the Election Resolution, in English and Spanish, calling the March 6, 2018 Regular Election. The Resolution will be published in the Alamogordo Daily Newspaper on Sunday, December 10, 2017 (1-15 days after adoption) and again on Sunday, December 24, 2017 (75-60 days prior to election).

This election will be to vote for the Mayor at Large, one City Commissioner in District 2, one City Commissioner in District 4, and a Municipal Judge.

Candidate filing day will be January 9, 2018 in the office of the City Clerk from 8:00 a.m. to 5:00 p.m. Write in Candidate filing day will be January 16, 2018 from 8:00 a.m. to 5:00 p.m.

**CITY OF ALAMOGORDO
ELECTION RESOLUTION NO. 2017-35**

**AN ELECTION RESOLUTION CALLING FOR A REGULAR MUNICIPAL ELECTION
TO BE HELD ON MARCH 6, 2018 FOR THE PURPOSE OF ELECTING A MAYOR
AT- LARGE, TWO (2) DISTRICT CITY COMMISSIONERS AND A MUNICIPAL
JUDGE.**

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ALAMOGORDO, NEW MEXICO,
THAT:

PUBLIC NOTICE IS HEREBY GIVEN that a Regular Municipal Election will be held in the City of Alamogordo, New Mexico (herein "City") on Tuesday, March 6, 2018 for the purpose of electing municipal officials

Section I. Elective Offices to be filled.

The qualified electors of the entire City shall elect the following:

MAYOR AT-LARGE:

A. ONE (1) Mayor At-Large for a four-year term.

The qualified electors of the City within the boundaries of Districts 2 and 4 shall elect the following:

CITY COMMISSIONERS:

B. DISTRICT TWO (2): ONE (1) City Commissioner for a four-year term.

C. DISTRICT FOUR (4): ONE (1) City Commissioner for a four-year term.

The qualified electors of the entire City shall elect the following:

MUNICIPAL JUDGE:

D. ONE (1) Municipal Judge for a four-year term.

Declarations of Candidacy for the above municipal offices shall be filed with the City Clerk on Tuesday, January 9, 2018 between the hours of 8:00 a.m. and 5:00 p.m.

Section II. Date and Time of the Closing of the Registration Books by the County Clerk.

Persons desiring to register to vote at the Regular Election must do so with the Otero County Clerk not later than 5:00 p.m. on Tuesday, February 6, 2018, the date on which the County Clerk will close the registration books. Since the registered voters within the boundaries of Districts 2 and 4 will elect City Commissioners, it is particularly important for voters to be registered at the address where they presently reside.

Section III. Location of Polling Places and Consolidation of Precincts.

The polls for the Regular Election will be opened at 7:00 a.m. Mountain Standard Time on Tuesday, March 6, 2018 and will be closed at 7:00 p.m. Mountain Standard Time on the same day. Precincts shall be consolidated and the following locations have been designated as polling places:

CONSOLIDATED PRECINCTS

Districts 1 – 6

Districts 1 – 6

POLLING PLACES

Otero County Fairgrounds
Extension Office Meeting Room
401 Fairgrounds Road

Sgt. Willie Estrada Memorial Civic Center
800 East 1st Street

Districts 1 – 6

Tays Special Events Center
2235 North Scenic

Absentee

City Clerk's Office
1376 E. Ninth Street

Section IV. Date and Time of Absentee Voting.

Applications for absentee ballots may be obtained only from the office of the Municipal Clerk. All applications for an absentee ballot must be completed and accepted by the Municipal Clerk prior to 5:00 p.m., March 2, 2018. After 5:00 p.m. on March 2, 2018, all unused absentee ballots will be publicly destroyed by the Municipal Clerk. The Municipal Clerk will accept completed absentee ballots delivered by mail, or in person by the voter casting the absentee ballot, by a member of the voter's immediate family, or by the caregiver to the voter until 7:00 p.m. on March 6, 2018.

Absentee Voting. Absentee ballots may be issued/mailed to voters in the office of the Municipal Clerk during the regular hours and days of business, beginning on Tuesday, January 30, 2018, and closing at 5:00 p.m. on Friday, March 2, 2018.

Early Voting. Early voting on paper ballots counted by the Dominion electronic vote tabulator will be conducted in the office of the Municipal Clerk beginning on Wednesday, February 14, 2018 and closing at 5:00 p.m. on Friday, March 2, 2018.

Absentee & Early voting will be conducted in the office of the City Clerk at City Hall, 1376 E. Ninth Street, during regular business hours, which are Monday through Friday, 8:00 a.m. to 5:00 p.m. There will be voting during the noon hour.

Section V. Voting Eligibility.

Qualified electors with registered addresses located within the City Limits of Alamogordo are eligible to vote in this Election.

Section VI. Casting of votes on Voting Machines and Paper Ballots.

The casting of votes by qualified electors at the four polling places on paper ballots shall be counted by the Dominion electronic vote tabulator. Paper ballots and Dominion tabulators will be used for Absentee and Early Voting.

Section VII. Canvass of Election Returns.

The Election Returns will be canvassed before a Magistrate Judge on Thursday, March 8, 2018 at City Hall, 1376 E. Ninth Street, Alamogordo, New Mexico. Further information may be obtained by contacting the Office of the City Clerk.

PASSED, APPROVED AND ADOPTED THIS 5th day of **December, 2017.**
CITY OF ALAMOGORDO, NEW MEXICO, a New Mexico municipal corporation

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard Boss, Mayor

ATTEST:

APPROVED AS TO FORM:

RESOLUCIÓN DE ELECCIÓN NÚMERO 2017-35

UNA RESOLUCIÓN QUE SE CELEBRE UNA ELECCIÓN MUNICIPAL REGULAR EL DIA MARTES 6 DE MARZO DE 2018 CON EL PROPOSITO DE ELEGIR OFICINA DEL ALCALDE, DOS (2) COMISIONADOS MUNICIPALES DE DISTRITO Y UN JUEZ MUNICIPAL.

A SER RESUELTO POR LA COMISION MUNICIPAL DEL MUNICIPIO DE ALAMOGORDO, NUEVO MEXICO.

POR LA PRESENTE SE NOTIFICA PUBLICAMENTE que se celebraran Elecciones Municipales Regulares en el Municipio de Alamogordo, Nuevo Mexico, (en lo sucesivo "El Municipio") el dia martes 6 de Marzo de 2018 con el proposito de elegir un Alcalde, dos (2) Comisionados municipales de Distrito y un Juez Municipal.

Sección I. Puestos electivos que habran de ocuparse.

Los electors competentes del Municipio votaran por los siguientes puestos:

ALCALDE:

Un Alcalde (en general) por un término de cuatro años.

Los electors competentes del Municipio que se encuentren dentro de los límites de los Distritos 2 y 4 votaran por los siguientes puestos:

COMISIONADOS MUNIPALES:

SEGUNDO DISTRITO (2): UN Comisionado Municipal por un término de cuatro años.

CUATRO DISTRITO (4): UN Comisionado Municipal por un término de cuatro años.

Los electors competentes del Municipio votaran por los siguientes puestos:

JUEZ MUNICIPAL:

Un Juez Municipal por un término de cuatro años.

Todas las postulaciones para la candidature a los puestos de Alcalde, Comisionados Municipales y Juez Municipal deberan ser fichadas en la Secretaria Municipal el martes 9 de Enero de 2018 entre las 8:00 a.m. y las 5:00 p.m.

Sección II. Hora y fecha en que la Escribana del Condado cerrará el Registro.

Quienes deseen votar en las Elecciones Regulares y que no estén actualmente inscritos para votar o que no estén actualmente inscritos para votar in la dirección donde residen actualmente, deberán inscribirse en la oficina de la Escribana del Condado de Otero a no más tardar el martes 6 de febrero de 2018 a las 5:00 p.m., fecha y hora en que la Escribana del Condado cerrará el registro. Dado que los votantes registrados dentro de los distritos 2 y 4 elegirán a los comisionados de a Cuidad, es particular importante que los votantes sean registrados en la dirección donde actualmente se encuentran.

Sección III. Ubicación de los Centros Electorales y Consolidación de Recintos.

El día de las Elecciones, el martes 6 de marzo de 2018, se abrirán los centros electorales a las 7:00 a.m., hora oficial Zona Montaña, y se cerrarán ese mismo día a las 7:00 p.m., Hora oficial Zona Montaña. Se consolidarán los recintos electorales y los lugares que se mencionan a continuación han sido designados en calidad de colegios electorales:

RECINTOS CONSOLIDADOS**Distritos 1 – 6 :****Distritos 1 – 6:****Distritos 1 – 6 :****Votos En Ausencia:****COLEGIOS ELECTORALES**

Otero County Fairgrounds

Extension Office Meeting Room

401 Fairgrounds Road

Sgt. Willie Estrada Memorial Civic Center

800 East 1st Street

Tays Special Events Center

2235 North Scenic

Oficina del la Secretaria del

Municipio, Calle 9 # 1376 Este

Sección IV. Hora y fecha para votos en ausencia.

Solicitudes para obtener balotas para votar en ausencia pueden ser obtenidas únicamente de la oficina de la Escribana de la Municipalidad. La Escribana de la Municipalidad debe llevar y aceptar todas las solicitudes para obtener una balota para votar en ausencia antes de las 5:00 p.m. el 2 de Marzo de 2018. A partir de las 5:00 p.m. el 2 de marzo de 2018, la Escribana de la Municipalidad públicamente destruirá todas las balotas no utilizadas. La Escribana de la Municipalidad aceptará las balotas completadas por el votante que emite su balota, con el fin de votar en ausencia, que se le entregue por correo o en persona, de un miembro de la familia inmediata del votante, o del conserje al votante hasta las 7:00 p.m. el 6 de Marzo de 2018.

Las boletas de voto ausente puede ser emitido/enviado por correo a los votantes en la oficina de la escribana de la Municipalidad, durante las horas y días hábiles, empezando el martes, 30 de enero de 2018 y terminando a las 5:00 p.m. el viernes, 2 de Marzo de 2018.

Votación por Anticipado. El recuento de los votos por anticipado, de papeleta, se llevará a cabo por un tabulador Dominion electrónico en la oficina de la Escribana de la Municipalidad, durante las horas y días hábiles, empezando el miércoles, 14 de febrero de 2018 y terminando a las 5:00 p.m. el viernes, 2 de Marzo de 2018.

Las votaciones en ausencia y anticipado se efectuarán durante horas regulares de oficina, o sea de lunes a viernes entre las 8:00 a.m. y las 5:00 p.m. en la oficina de la Escribana de la Municipalidad. Habrá votaciones durante la hora de mediodía.

Sección V. Elegibilidad electoral.

Los electores inscriptos que residan oficialmente dentro de los límites del Municipio de Alamogordo podrán votar en estas elecciones.

Sección VI. Votaciones en maquinas de votación y papeletas de votación.

Las votaciones por los electores calificados en los cuatro lugares para votar serán marcadas con boletas de papel. Las boletas de papel y la maquina Dominion sera utilizada para votación en ausencia y anticipado.

Sección VII. Sondeo de los resultados electorales.

Se sondearán los resultados de las elecciones ante un Juez de Instrucción el jueves 8 de marzo de 2018, en el ayuntamiento ciudad, Calle 9 # 1376 Este. Para obtener más información, pueden ponerse en contacto con la Secretaria Municipal.

ACORDADO, APROBADO, Y ACEPTADO ESTE día **5** de **Diciembre** de **2017**.

CIUDAD DE Alamogordo, Nuevo MEXICO
una corporación municipal de Nuevo México

Por: _____
Richard Boss, Alcalde

DOY FE:

Rachel Hughs, Secretaria Municipal

APROBADO EN FORMA:

Petria Schreiber, Abogada de la Ciudad

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/05/2017

Report Date: 11/28/2017

Report No: 15.

Submitted By: April Jones

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

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Appoint new chair for White Sands Beautification Committee

Background:

Airport Zoning Board. Three (3) vacancies. Staff Liaison - Cheryl Otero-Baker
(Openings due to the expired term of Darron Williams and resignation of Frank Nelson and Paul Vigneault.)

No nominations received.

Alamogordo Disability Council. Three (3) vacancies. Staff Liaison - ****No Staff Liaison appointed to this Council**** *(Openings due to the resignation of Viviane Ackall, and expired terms of Lori Adam and Rita Martinez)*

No nominations received.

Alamogordo Promotion Board. One (1) vacancy- tourism related. Staff Liaison - Jan Wafful *(Opening due to Kathleen Beall's resignation)*

No nominations received.

Alamogordo Public Library Board. One (1) vacancies. Staff Liason - Melissa Garcia.

No nominations received.

Community Development Advisory Committee. Six (6) vacancies. Staff Liaison - Cynde Sagenkahn *(Opening due to the expired term of Bruce Knee, Melanie Hall, and Gloria Vaughn; and the resignation of Eddie Kemp and Arthur Alterson)*

No nominations received.

Parks and Recreation Board. Two (2) vacancies. Staff Liason - Jan Wafful. *(Opening due to the resignations of Ray Vincent and Paul Sanchez)*

No nominations received.

Senior Volunteer Programs Advisory Council. One (1) vacancies. Staff Liaison - Julie Baker (*Openings due to the expiring terms of Annarelle McDonald*)
No nominations received.

White Sands Beautification Committee No vacancies. Staff Liaison - Darron Williams
David A. Gonzalez - committee chair wishes to resign as chairman and requests to remain on the committee.
Christopher Hayman - committee member is interested in being appointed as chairman.

To Mayor Richard Boss
&
Alamogordo City council

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I David A. Gonzalez do hereby resign as Chairman of the White Sands Beautification Committee effective December 18th I would like to request to remain on the Committee just not as the Chairman.

Thank you for your consideration.

A handwritten signature in dark ink, consisting of a large, stylized 'D' followed by a horizontal line extending to the right.

David A. Gonzalez
humble servant

RECEIVED

NOV 27 2017

CITY CLERK

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

Name: Christopher Hayman
Home Phone: 858 879-7893 Work Phone: _____
Cell Phone: 858 879-7893 Fax No: _____
e-mail address: chayman@gcrmc.org
Physical Address: 938 La Puerta Alamogordo NM
Is the above address within City limits? Yes ☒ No _____
Mailing Address: 938 La Puerta Alamo
Present Employer: GCRMC Hosp Job Title: Director

Board/Committee you wish to serve on:

First choice: ☒ Chair, White Sands Beautification (applying for chair) and
Second choice: N/A

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

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

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

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

Experience and education relating to the Board/Committee: _____

Committee member

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

To better the community I share
to make a difference no matter how large or
small

Please return completed application to:



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