



AGENDA

Carlsbad City Council Special Meeting at the
Municipal Building, 101 North Halagueno Street
Carlsbad, New Mexico

November 15, 2016 at 4:00 p.m.

Invocation – Pledge of Allegiance

1. Approval of Agenda

2. Consider approval of Ordinance No. 2016-26, an Ordinance Authorizing the Grant of Funds to New Mexico Inter-Faith Community Housing Development Corporation for the Rehabilitation of the Colonial Hillcrest Apartments, an Affordable Housing Project, pursuant to Ordinance No. 2006-05, establishing an Affordable Housing Program

A. Public Hearing

B. Consider Ordinance No. 2016-26

3. Consider approval of Resolution No. 2016-50, a Resolution Supporting the submittal of an Application for Transportation Roadway Improvement Funding Administered by New Mexico Department of Transportation for the Reconstruction of San Jose Boulevard

4. Consider approval to Advertise Invitation for Bid the Sanitary Sewer Interceptor 118 Upgrade, Phase One

5. Council Committee Reports

6. Adjourn



FOR INFORMATION ONLY

Agendas and City Council minutes are available on the City web site: cityofcarlsbadnm.com or may be viewed in the Office of the City Clerk or at the Carlsbad Public Library during normal and regular business hours.

CARLSBAD CITY COUNCIL MEETING SCHEDULE

- Regular meeting - Tuesday, December 13, 2016 at 6:00 p.m.

CANCELLED MEETINGS:

- Regular meeting - Tuesday, November 22, 2016 at 6:00 p.m.
- Regular meeting - Tuesday, December 27, 2016 at 6:00 p.m.

If you require hearing interpreter, language interpreters or auxiliary aids in order to attend and participate in the above meeting, please contact the City Administrator's office at (575) 887-1191 at least 48 hours prior to the scheduled meeting time.

CITY OF CARLSBAD
AGENDA BRIEFING MEMORANDUM
SPECIAL MEETING

Meeting Date: 11/15/16

DEPARTMENT: Planning, Engineering, and Regulation	BY: Jeff Patterson, Planning Director	DATE: 11/1/16
--	--	----------------------

SUBJECT: Consider approval of an Ordinance authorizing the grant of funds in the amount of \$155,000.00 from the City of Carlsbad to New Mexico Inter-Faith Community Housing Development Corporation for the Colonial Hillcrest Apartments rehabilitation, an Affordable Housing project.

Applicant:

New Mexico Inter-Faith Community Housing Development Corporation
 125 E. Palace Ave. Ste. 43
 Santa Fe, NM 87501

HISTORY: On Dec. 7, 2015, New Mexico Inter-Faith Housing Development Corporation submitted an application for Affordable Housing Contribution to the Planning Department requesting a contribution from the City to their planned rehabilitation of the Colonial Hillcrest Apartments, located at 604 N. Fifth St. The applicant plans to rehabilitate this apartment complex and operate the complex as affordable housing. The applicant is requesting contribution in the form of infrastructure reimbursement for qualifying items as defined in the City's Affordable Housing Ordinance (Ord. No. 2006-05, attached). The Affordable Housing Ordinance allows the City to contribute to affordable housing projects through infrastructure reimbursement. The reimbursement of selected qualifying infrastructure will be 100% of the selected qualifying infrastructure costs, as per the Ordinance. The Planning Department has reviewed the application for contribution and deemed the applicant a qualifying grantee. The application was then sent to the New Mexico Mortgage Finance Authority for review, as required by the Ordinance. The NMMFA has reviewed this application and deemed New Mexico Inter-Faith Housing Development Corporation a qualifying grantee (see attached letter). At the January 26, 2016, Council Meeting, the Council voted to approve the submitted preliminary budget and passed Resolution No. 2016-08, a Resolution of Support for the Colonial Hillcrest Apartments rehabilitation project. The City's Affordable Housing Ordinance requires that in addition to approving the submitted budget for the affordable housing project, the Governing Body must also pass an Ordinance authorizing the grant of funds to the project. Once the ordinance authorizing the grant of funds is passed by the Council, the City will enter into a Development Agreement with the applicant that will determine the affordability period designated for this project and bind the applicant to the requirements of the City's Affordable Housing Ordinance and the New Mexico Affordable Housing Act..

SYNOPSIS: The applicant submitted their preliminary budget with their application (see attached). The rehabilitation of the Colonial Hillcrest Apartments will include the following improvements that are eligible for reimbursement (budget numbers attached): rehab of sanitary sewer, rehab of water distribution lines, repaving of parking areas and accesses, paving repair and seal coating, curb repairs and handicap ramp repair, irrigation and landscaping, HVAC replacement, and electrical repair and upgrade. The total amount deemed eligible for reimbursement is \$1,616,485. The City's infrastructure reimbursement budget currently has approximately \$155,000 available for this project.

At their regularly scheduled meeting on January 4, 2016, the Planning and Zoning Commission reviewed this application and voted to **recommend approval of a reimbursement to the applicant of up to \$155,000.00.**

At the January 26, 2016 Council Meeting, the Council voted to approve the submitted preliminary budget and passed Resolution No. 2016-08, a Resolution of Support for the Colonial Hillcrest Apartments rehabilitation project.

The Planning Department asks that the Council review and pass the attached ordinance authorizing the grant of \$155,000.00 to the Colonial Hillcrest Apartments rehabilitation, the affordable housing project proposed by New Mexico Inter-Faith Community Housing Development Corporation.

BOARD/COMMISSION/COMMITTEE ACTION:

- | | | | |
|---|--|--|--|
| <input checked="" type="checkbox"/> P&Z | <input type="checkbox"/> Lodgers Tax Board | <input type="checkbox"/> Cemetery Board | <input checked="" type="checkbox"/> APPROVED |
| <input type="checkbox"/> Museum Board | <input type="checkbox"/> San Jose Board | <input type="checkbox"/> Water Board | <input type="checkbox"/> DISSAPPROVED |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> N. Mesa Board | <input type="checkbox"/> _____ Committee | |

Reviewed by

City Administrator: /s/ Steve McCutcheon

Date: Nov 16, 2016

ATTACHMENTS: Preliminary Budget, P & Z Minutes, January 26, 2016 Council Minutes, Ordinance.

ORDINANCE NO. 2016-26

AN ORDINANCE AUTHORIZING THE GRANT OF FUNDS TO NEW MEXICO INTER-FAITH COMMUNITY HOUSING DEVELOPMENT CORPORATION FOR THE REHABILITATION OF THE COLONIAL HILLCREST APARTMENTS, AN AFFORDABLE HOUSING PROJECT, PURSUANT TO ORDINANCE NO. 2006-05, ESTABLISHING AN AFFORDABLE HOUSING PROGRAM.

WHEREAS, the City of Carlsbad desires to promote the development of new affordable housing and the improvement of existing affordable housing; and

WHEREAS, as permitted by the Affordable Housing Act, NMSA 1978, Sec. 6-27-1. et seq. (the “Act”), the City of Carlsbad adopted Ordinance No. 2006-05 (the “Ordinance”) establishing an affordable housing program; and

WHEREAS, pursuant to the requirements of the Act and the Ordinance, New Mexico Inter-Faith Community Housing Development Corporation (NMIFCHDC) has made application with the City to participate in an Affordable Housing Project under the Act; and

WHEREAS, in its application, NMIFCHDC proposed to rehabilitate the Colonial Hillcrest Apartments and implement a program in which it will manage the Apartments as an affordable housing development; and

WHEREAS, NMIFCHDC’s application includes a request that the City provide it with a Housing Assistance Grant consisting of the reimbursement of qualifying infrastructure costs up to the amount of \$155,000.00 for the rehabilitation of the Colonial Hillcrest Apartments; and

WHEREAS, the Act and the Ordinance permit the City to make Housing Assistance Grant, which may include the reimbursement of qualifying infrastructure costs, upon application and approval; and

WHEREAS, the City has reviewed NMIFCHDC’s application and finds that the application is complete, NMIFCHDC is a Qualifying Grantee, and the project is in compliance with the Act and the New Mexico Mortgage Finance Authority Affordable Housing Act Rules (the “Rules”).

NOW THEREFORE, be it ordained by the GOVERNING BODY OF THE CITY OF CARLSBAD, COUNTY OF EDDY, STATE OF NEW MEXICO, as follows:

1. The Governing Body of the City of Carlsbad hereby authorizes the reimbursement of qualifying infrastructure costs of an amount up to \$155,000.00 to the New Mexico Inter-Faith Community Housing Development Corporation.

2. The reimbursement of qualifying infrastructure costs to NMIFCHDC shall be for the rehabilitation of the Colonial Hillcrest Apartments, the Affordable Housing project described in NMIFCHDC's Application.
3. The reimbursement of qualifying infrastructure costs shall be authorized only after a budget is submitted to and approved by the Governing Body of the City of Carlsbad, and the project is inspected and complete.
4. This ordinance shall be effective subject to the requirements for publication and filing.
5. Any award of a Housing Assistance Grant by the City shall be contingent upon the review and approval of the New Mexico Mortgage Finance Authority.
6. Any award of a Housing Assistance Grant by the City shall subject NMIFCHDC to the oversight of the City and the New Mexico Mortgage Finance Authority under the Rules.

INTRODUCED, PASSED, ADOPTED AND APPROVED this 15th day of November,
2016.

DALE JANWAY, MAYOR

ATTEST:

CITY CLERK



Jeff Patterson <jepatterson@cityofcarlsbadnm.com>

Affordable Housing Donation Applications - MFA Review

3 messages

Nicole Sanchez <nsanchez@housingnm.org>

Mon, Jan 4, 2016 at 3:42 PM

To: "Jeff Patterson (jepatterson@cityofcarlsbadnm.com)" <jepatterson@cityofcarlsbadnm.com>

Cc: Rose Baca-Quesada <rbacaquesada@housingnm.org>

Hi Jeff,

Happy New Year!

MFA reviewed the two (2) applications for affordable housing donations. I attached my review letter. Feel free to call me if you have questions. Please certify to MFA once the City determines the applicants are Qualifying Grantees and the value of the City's donations.

The original will be mailed to you tomorrow since I missed today's outgoing mail deadline.

Thank you very much,

Nicole



MFA Nicole Sanchez, Program Manager

New Mexico Mortgage Finance Authority

Direct Phone: 505.767.2277

Fax: 505.242.2766

www.housingnm.org



This transmission is intended only for the addressee shown.

Review, dissemination or use of this transmission by persons or unauthorized employees of the intended organizations is strictly prohibited. The contents of this transmission do not necessarily represent the views or policies of the New Mexico Mortgage Finance Authority or its employees.

Please note that Internet email is not entirely private.

While this message (including any attachments) is intended only for the use of the addressees, it can possibly be intercepted, redirected,

altered, or viewed by unauthorized parties.

For security purposes, please do not include any personal information such as Social Security numbers, account numbers, or account balances in any email correspondence.

Furthermore, this email and any attachments are intended to be confidential and may also be privileged, except where the email states it can be disclosed.

Please comply with any restrictions on disclosure indicated in the email.

If received in error, please do not disclose the contents to anyone, do not forward it, delete it (and any attachments) from your system, destroy any copies and notify the sender immediately.

New Mexico Mortgage Finance Authority

344 4th St SW

Albuquerque, NM 87102

(505) 843-6880

(800) 444-6880 Toll Free in New Mexico



MFAReview_CarlsbadDonationApplications_Jan2016.pdf

65K

Jeff Patterson <jepatterson@cityofcarlsbadnm.com>
To: Nicole Sanchez <nsanchez@housingnm.org>
Cc: Rose Baca-Quesada <rbacaquesada@housingnm.org>

Tue, Jan 5, 2016 at 10:53 AM

Nicole, attached are the two items requested by you concerning the completion of the Affordable Housing application from New Mexico Inter-Faith Community Housing Development Corporation. Will these items be sufficient to complete this application?

Thank you for your quick turn around on the review of these applications. I really appreciate it!

Jeff

[Quoted text hidden]

—

Jeff Patterson

Director, Planning, Engineering, and Regulation Dept.

City of Carlsbad

575-885-1185

Ext. 2221

2 attachments



Civil Rights Disclosure.pdf

47K



NMIF 2016 Certificate of Good Standing.pdf

60K

Nicole Sanchez <nsanchez@housingnm.org>
To: Jeff Patterson <jepatterson@cityofcarlsbadnm.com>
Cc: Rose Baca-Quesada <rbacaquesada@housingnm.org>

Tue, Jan 5, 2016 at 12:06 PM

Hi Jeff,

Yes, these documents will complete NM Inter-Faith's application.

Thank you,

Nicole



MFA Nicole Sanchez, Program Manager
New Mexico Mortgage Finance Authority
Direct Phone: [505.767.2277](tel:505.767.2277)
Fax: [505.242.2766](tel:505.242.2766)
www.housingnm.org

From: Jeff Patterson [mailto:jepatterson@cityofcarlsbadnm.com]
Sent: Tuesday, January 05, 2016 10:53 AM
To: Nicole Sanchez
Cc: Rose Baca-Quesada
Subject: Re: Affordable Housing Donation Applications - MFA Review

[Quoted text hidden]

[Quoted text hidden]

**Contractor's and/or Mortgagor's
Cost Breakdown
Schedules of Values**

**U.S. Department of Housing and
Urban Development**
Office of Housing
Federal Housing Commissioner

OMB No. 2502-0044 (exp.) 2/28/97

Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0044), Washington, D.C. 20503.

Date: 8/23/2016		Sponsor: Bouchee Development		
Project No: 116-35180		Building Identification: MASTER; ALL BUILDINGS & SITEWORK & FEES		
Name of Project: Colonial Hillcrest Apartments		Location: Carlsbad, NM		
This form represents the Contractors and/or Mortgagors firm costs and services as a basis for disbursing dollar amounts when insured advances are requested. Detailed instructions for completing this form are included.				
Line	Div.	Trade Item	Cost	Trade Description
1	3	Concrete	\$ 74,201	L&M for post footings and stair footings.
2	4	Masonry	\$ 25,000	L&M for cleaning existing masonry
3	5	Metals	\$ 289,650	L&M for stairs, railings, landings, guard rails and misc. steel connectors.
4	6	Rough Carpentry	\$ 163,360	L&M for plates, studs, columns, trusses, beams, headers, nails and hardware
5	6	Finish Carpentry	\$ 41,777	Labor for base, shelves, rods, wood doors and frames, slider installation and punch.
6	7	Waterproofing	\$ -	N/A
7	7	Insulation	\$ 21,000	L&M for fire caulking.
8	7	Roofing	\$ 277,485	L&M for roofing, roof flashing, gutters and downspouts
9	7	Sheet Metal	\$ -	N/A
10	8	Doors	\$ 211,345	L&M for doors and door hardware.
11	8	Windows	\$ 101,478	L&M for nail on windows, sliding patio doors and screens.
12	8	Glass	\$ -	N/A
13	9	Lath and Plaster	\$ 205,375	L&M for stucco system including foam, wire lath, plaster and metal stops and expansion joints.
14	9	Drywall	\$ 224,799	L&M for gypsum board, metal framed drops, clips and finish texture.
15	9	Tile Work	\$ -	See Line 25, Carpets
16	9	Acoustical	\$ -	N/A
17	9	Wood Flooring	\$ -	N/A
18	9	Resilient Flooring	\$ -	See Line 25, Carpets
19	9	Painting and Decorating	\$ 162,641	L&M for interior and exterior painting and caulking.
20	10	Specialties	\$ 100,944	L&M for bath accessories, building and unit numbers and fire extinguishers.
21	10	Special Equipment	\$ -	N/A
22	11	Cabinets	\$ 223,337	L&M for cabinets and countertops.
23	11	Appliances	\$ 79,844	L&M for ranges, hoods, dishwashers and refrigerators.
24	12	Blinds and Shades, Artwork	\$ 35,456	L&M for vertical blinds at all windows.
25	9	Carpets	\$ 151,241	L&M for flooring throughout
26	12	Special Construction	\$ -	N/A
27	12	Elevators	\$ -	N/A
28	15	Plumbing and Hot Water	\$ 348,263	L&M for fixture replacement, tubs and water heaters.
29	15	Heat and Ventilation	\$ -	Se line 30, Air Conditioning
30	15	Air Conditioning	\$ 529,285	L&M for new heat pumps, exhaust fans, ductwork and thermostat.
31	16	Electrical	\$ 771,778	L&M for transformers, service panels, unit panels, new wiring to HVAC and Water Heater and new fixtures.
32		Subtotal (Structures)	\$ 4,038,259	
33		Accessory Structures	\$ 414,582	L&M for Clubhouse and Maintenance / Laundry Building
34		Total (Lines 32 and 33)	\$ 4,452,841	

Master form - 2328 (contd. Page 2 of 2)

Line	Div.	Trade Item	Cost	Trade Description			
35	2	Earth Work	\$ 59,655	L,M & Equipment for rough and fine grading for the new clubhouse and retention basin			
36	2	Site Utilities	\$ 169,677	L&M & E for site water and sewer line replacement			
37	2	Roads & Walks	\$ 238,435	L&M Paving, Striping, Extruded Curbs, Vert. Curbs/Headers and Sidewalks.			
38	2	Site Improvements	\$ 128,026	L&M site fence, site furnishings, playgrounds and a monument sign.			
39	2	Lawns and Planting	\$ -	N/A			
40	2	Unusual Site Conditions	\$ -	N/A			
41		Total Land Improvements	\$ 595,793	Nonresidential and Special			
42		Total Struct.& Land Imprvts.	\$ 5,048,634	Exterior Land Improvements		Offsite Costs	
43	1	General Requirements	\$ 333,579	costs included in trade items		costs not included in trade items	
44		Subtotal (Lines 42 and 43)	\$ 5,382,213	Description	Cost	Description	Cost
45	1	Builder's Overhead	\$ 108,518			Off-Site Utilities	\$ -
46	1	Builder's Profit	\$ 268,918			Off-Site Roads and Walks	\$ -
47		Subtotal (Lines 44 thru 46)	\$ 5,759,649			Off-Site Site Improvements	\$ -
48		Contingency	\$ -	Total \$	\$ -	Total \$	\$ -
49		Other Fees (Contractor's Only)	\$ 487,937	Contractor's Other Fees		Demolition	
50		Bond Premium	\$ 73,859	costs shown in line 49		costs not included in trade items	
51		Total for All Improvements	\$ 6,321,445	Description	Cost	Description	Cost
52		Builder's Profit paid by Means Other Than Cash	\$ -	Sales Tax (Carlsbad)	\$ 444,252		
				Insurance	\$ 43,685		
53		Total for all Improvements		Cost Certification	N/A		
		Less Line 52	\$ 6,321,445	Total \$	\$ 487,937	Total \$	

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010 1012; 31 U.S.C 3729, 3802)

Mortgagor:	By:	Date:
Contractor: Tofel Construction, L.L.C. dba Tofel Construction	By: Steven L. Tofel, President	Date:
Mortgagor's Cost Analyst:	By:	Date:
FHA: Chief, Cost Branch or Cost Analyst	By:	Date:
FHA: Chief Underwriter	By:	Date:

**Contractor's and/or Mortgagor's
Cost Breakdown
Schedules of Values**

**U.S. Department of Housing and
Urban Development**
Office of Housing
Federal Housing Commissioner

OMB No. 2502-0044 (exp.) 2/28/97)

Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0044), Washington, D.C. 20503.

Date: 8/23/2016		Sponsor: Bouchee Development		
Project No: 116-35180		Building Identification: WORKSHEET - Clubhouse		
Name of Project: Colonial Hillcrest Apartments		Location: Carlsbad, NM		
This form represents the Contractors and/or Mortgagors firm costs and services as a basis for disbursing dollar amounts when insured advances are requested. Detailed instructions for completing this form are included.				
Line	Div.	Trade Item	Cost	Trade Description
1	3	Concrete	\$ 53,130	L&M for footings, slabs, base course & termite pretreat.
2	4	Masonry	\$ 3,058	L&M for masonry veneer.
3	5	Metals	\$ 4,800	L&M for some structural steel
4	6	Rough Carpentry	\$ 53,909	L&M for plates, studs, columns, trusses, beams, headers, nails & hardware
5	6	Finish Carpentry	\$ 1,499	Labor for slider installation and punch.
6	7	Waterproofing	\$ -	Included in other trades
7	7	Insulation	\$ 3,766	L&M for thermal and acoustic insulation at exterior walls, demising walls and roof, and fire caulking.
8	7	Roofing	\$ 22,251	L&M for Fiberglass shingle roofing, roof flashing.
9	7	Sheet Metal	\$ -	Included in Line 8, Roofing
10	8	Doors	\$ 13,600	L&M for doors and door hardware, shelving, base and closet rods.
11	8	Windows	\$ 8,548	L&M for nail on windows, sliding patio doors and screens.
12	8	Glass	\$ -	Included in Line 11, Windows
13	9	Lath and Plaster	\$ 7,369	L&M for stucco system including foam, wire lath, plaster and metal stops and expansion joints.
14	9	Drywall	\$ 8,066	L&M for gypsum board, metal framed drops, clips and finish texture.
15	9	Tile Work	\$ -	Ses Div 25, Carpets
16	9	Acoustical	\$ 2,628	L&M for acoustical ceilings
17	9	Wood Flooring	\$ -	See Div. 12
18	9	Resilient Flooring	\$ -	Ses Div 25, Carpets
19	9	Painting and Decorating	\$ 5,836	L&M for interior and exterior painting and caulking.
20	10	Specialties	\$ 3,622	L&M for bath accessories, building and unit numbers and fire extinguishers.
21	10	Special Equipment	\$ -	N/A
22	11	Cabinets	\$ 7,420	L&M for cabinets and countertops.
23	11	Appliances	\$ 1,450	L&M for range, non-vented exhaust hood, dishwasher, disposal and refrigerator.
24	12	Blinds and Shades, Artwork	\$ 2,987	L&M for vertical blinds at all windows.
25	9	Carpets	\$ 8,324	L&M for finish flooring.
26	12	Special Construction	\$ -	N/A
27	12	Elevators	\$ -	N/A
28	15	Plumbing and Hot Water	\$ 11,000	L&M for fixtures, hot and cold water CPVC piping, waste & vents lines,
29	15	Heat and Ventilation	\$ -	Included in Line 30, Air Conditioning.
30	15	Air Conditioning	\$ 21,294	L&M for fan coils, condensers, redwood pads, condensate lines & bath exhaust fans.
31	16	Electrical	\$ 27,692	L&M for service, breaker panels, wiring, fixtures, and TV and telephone prewire.
32		Subtotal (Structures)	\$ 272,249	
33		Accessory Buildings	\$ -	
34		Total (Lines 32 & 33)	\$ 272,249	

**Contractor's and/or Mortgagor's
Cost Breakdown
Schedules of Values**

**U.S. Department of Housing and
Urban Development**
Office of Housing
Federal Housing Commissioner

OMB No. 2502-0044 (exp.) 2/28/97)

Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0044), Washington, D.C. 20503.

Date: 8/23/2016		Sponsor: Bouchee Development		
Project No: 116-35180		Building Identification: WORKSHEET - Maintenance / Laundry Building		
Name of Project: Colonial Hillcrest Apartments		Location: Carlsbad, NM		
This form represents the Contractors and/or Mortgagors firm costs and services as a basis for disbursing dollar amounts when insured advances are requested. Detailed instructions for completing this form are included.				
Line	Div.	Trade Item	Cost	Trade Description
1	3	Concrete	\$ 1,769	L&M for footings, slabs, base course & termite pretreat.
2	4	Masonry	\$ -	N/A
3	5	Metals	\$ 750	L&M for steel Lintel
4	6	Rough Carpentry	\$ 8,638	L&M for plates, studs, columns, trusses, beams, headers, nails & hardware
5	6	Finish Carpentry	\$ 1,761	Labor for slider installation and punch.
6	7	Waterproofing	\$ -	Included in other trades
7	7	Insulation	\$ 1,000	L&M for thermal and acoustic insulation at exterior walls, demising walls and roof, and fire caulking.
8	7	Roofing	\$ 26,139	L&M for Fiberglass shingle roofing, roof flashing.
9	7	Sheet Metal	\$ -	Included in Line 8, Roofing
10	8	Doors	\$ 6,982	L&M for doors and door hardware, shelving, base and closet rods.
11	8	Windows	\$ 2,206	L&M for nail on windows, sliding patio doors and screens.
12	8	Glass	\$ -	Included in Line 11, Windows
13	9	Lath and Plaster	\$ 8,656	L&M for stucco system including foam, wire lath, plaster and metal stops and expansion joints.
14	9	Drywall	\$ 9,475	L&M for gypsum board, metal framed drops, clips and finish texture.
15	9	Tile Work	\$ -	Ses Div 25, Carpets
16	9	Acoustical	\$ -	N/A
17	9	Wood Flooring	\$ -	See Div. 12
18	9	Resilient Flooring	\$ -	Ses Div 25, Carpets
19	9	Painting and Decorating	\$ 6,855	L&M for interior and exterior painting and caulking.
20	10	Specialties	\$ 4,255	L&M for bath accessories, building and unit numbers and fire extinguishers.
21	10	Special Equipment	\$ -	N/A
22	11	Cabinets	\$ 3,475	L&M for cabinets and countertops.
23	11	Appliances	\$ -	N/A
24	12	Blinds and Shades, Artwork	\$ 771	L&M for vertical blinds at all windows.
25	9	Carpets	\$ 7,171	L&M for finish flooring.
26	12	Special Construction	\$ -	N/A
27	12	Elevators	\$ -	N/A
28	15	Plumbing and Hot Water	\$ 6,600	L&M for fixtures, hot and cold water CPVC piping, waste & vents lines,
29	15	Heat and Ventilation	\$ -	Included in Line 30, Air Conditioning.
30	15	Air Conditioning	\$ 13,300	L&M for fan coils, condensers, redwood pads, condensate lines & bath exhaust fans.
31	16	Electrical	\$ 32,530	L&M for service, breaker panels, wiring, fixtures, and TV and telephone prewire.
32		Subtotal (Structures)	\$ 142,333	
33		Accessory Buildings	\$ -	
34		Total (Lines 32 & 33)	\$ 142,333	

LAND IMPROVEMENT WORKSHEET

ITEM	UNIT	QUANTITY		UNIT PRICE	ESTIMATED COST	
		On-Site	Off-Site		On-Site	Off-Site
EARTHWORK:						
Staking	LS	1		\$ 500	\$ 500	\$ -
Site Grading	LS	1		\$ 52,110	\$ 52,110	\$ -
Soil Compaction Testing	LS	1		\$ 5,545	\$ 5,545	\$ -
Erosion Control	LS	1		\$ 1,500	\$ 1,500	\$ -
		-		\$ -	\$ -	\$ -
		-		\$ -	\$ -	\$ -
		-		\$ -	\$ -	\$ -
		-		\$ -	\$ -	\$ -
SUBTOTAL EARTHWORK					\$ 59,655	\$ -

SITE UTILITIES:						
Fire Water						
6" DIP	LF	15		\$ 42	\$ 630	\$ -
Fire Hydrant	EA	1		\$ 3,500	\$ 3,500	\$ -
Patch Asphalt	SY	15		\$ 70	\$ 1,050	\$ -
6" Valve	EA	1		\$ 800	\$ 800	\$ -
Domestic Water						
1-3/4" PVC Water Line	LF	2,305		\$ 21	\$ 48,405	\$ -
1" PVC Water Line	LF	160		\$ 10	\$ 1,600	\$ -
3/4" PVC Water Line	LF	177		\$ 15	\$ 2,708	\$ -
3/4" Isolation Valve	EA	76		\$ 246	\$ 18,659	\$ -
Sanitary Sewer						
Remove Existing Clay Pipe Sewer Line	LF	2,495		\$ 10	\$ 24,950	\$ -
4" SDR Sewer Line	LF	2,495		\$ 15	\$ 37,425	\$ -
Demo and Replace City Sidewalk	SF	225		\$ 10	\$ 2,250	\$ -
Traffic Control	LS	1		\$ 11,500	\$ 11,500	\$ -
Patch Asphalt	SY	70		\$ 100	\$ 7,000	\$ -
Cleanouts	EA	21		\$ 200	\$ 4,200	\$ -
Dry Utilities						
Cap Branch Lines off of Main Gas Line	LS	1		\$ 5,000	\$ 5,000	\$ -
SUBTOTAL SITE UTILITIES					\$ 169,677	\$ -

ROADS AND WALKS:						
Pavement						
Mill Pavement and Install 2" Overlay	SY	2,842		\$ 26.75	\$ 76,024	\$ -
New 2" Pavement	SY	660		\$ 23	\$ 15,180	\$ -
Striping and Signage	LS	1		\$ 4,431	\$ 4,431	\$ -
Asphalt Testing	LS	1		\$ 1,380	\$ 1,380	\$ -
Site Concrete						
Soil Poisoning	LS	1		\$ 1,134	\$ 1,134	\$ -
Sidewalks	LS	13,936		\$ 4.90	\$ 68,286	\$ -
Dumpsters	EA	6		\$ 12,000	\$ 72,000	\$ -
SUBTOTAL ROADS AND WALKS					\$ 238,435	\$ -

SITE IMPROVEMENTS:						
6' Chain Link Fence	LF	1,751		\$ 28.00	\$ 49,028	\$ -
6' Wood Slat Fence at Dumpster Enclosure	LF	242		\$ 26.36	\$ 6,378	\$ -
Tot Lot With Play Safe Wood Chips	EA	2		\$ 25,210	\$ 50,419	\$ -
Site Furnishings	LS	1		\$ 6,445	\$ 6,445	\$ -
Monument Sign	LS	1		\$ 456	\$ 456	\$ -
Sidewalk Culverts	LS	1		\$ 2,800	\$ 2,800	\$ -
Security Fencing	LS	1		\$ 12,500	\$ 12,500	\$ -
SUBTOTAL SITE IMPROVEMENTS					\$ 128,026	\$ -

LAWNS AND PLANTING:						
Landscaping					\$ -	\$ -
SUBTOTAL LAWNS AND PLANTING					\$ -	\$ -

LAND IMPROVEMENT WORKSHEET

ITEM	UNIT	QUANTITY		UNIT PRICE	ESTIMATED COST	
		On-Site	Off-Site		On-Site	Off-Site
TOTAL LAND IMPROVEMENTS (line 41,HUD 92328-LI)					\$ 595,793	\$ -

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING
ON JANUARY 26, 2016 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Sandra K. Nunley	Councilor
	Wesley A. Carter	Councilor
	Jason Shirley	Councilor
	Richard Doss	Councilor
	Janell E. Whitlock	Councilor
Absent:	J. R. Doport	Councilor
Also Present:	Steve McCutcheon	City Administrator
	Stephanie Shumsky	Deputy City Administrator
	Eileen P. Riordan	City Attorney
	Annette Barrick	City Clerk
	Monica Harris	Finance Director
	Jeff Patterson	Planning, Eng., & Reg. Director
	Luis Camero	Public Works Utilities Director
	Thomas Carlson	Public Works Director
	Richard Lopez	Fire Chief
	Kent D. Waller	Police Chief
	Patsy Jackson-Christopher	Director of Arts & Culture
	Steve Hendley	Director of Parks & Recreation

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:00 **Call Meeting to Order**

0:00:03 Invocation - Pledge of Allegiance

0:00:41 **Mayor Pro Tem welcomed Boy Scouts Troop #218.**

0:01:09 **Mayor Pro Tem asked Mr. Mike Hernandez for a summary of the recent water quality report in light of the issues in Flint.**

Mr. Hernandez explained Flint, Michigan recently experienced problems with their water system. He said they originally had a source from Lake Huron and switched to Lake Flint. He explained the water is being pulled from the surface and typically the

surface is more contaminated. He said the water can leach out the products from the lead water lines.

Mr. Hernandez explained the City of Carlsbad has a Consumer Confidence Report (CCR) that is due yearly. He said the last report was completed in July of 2015 which indicated that Carlsbad's drinking water meets or surpasses all federal and state drinking water quality standards.

0:04:43 **Ms. Ann Cross** explained she is an original member of the Project Playground Committee. She explained the playground was a community effort led by local citizens. She explained the City donated the land for the playground and the committee raised \$300,000. She explained the committee met with school children to learn what the children would like to see in the playground. She said the playground was built 13 years ago. She explained the playground has been maintained by staining and sealing and placing metal roofs on top of the components. She said now the problem is water which has rotted some of the beams. She explained an assessment has been completed and alot of the uprights need to be replaced with a new structural plastic material to prevent rotting. She said alot of the other components such as the overhead ladders and rings are also encased in wood. She said the City has done a fabulous job of maintaining the playground. She said there will be a 6 day rebuild of the playground. She said skilled volunteers are needed to get the playground back in shape for the next 25 years.

0:09:07 **1. APPROVAL OF AGENDA**

0:09:09 **Councilor Carter said he would like to amend the Agenda and hear items 10, 11, 12, and 13 as Items 3, 4, 5, and 6.**

0:09:28 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Shirley to approve the Agenda as amended

0:09:31 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doport; The motion carried.

0:09:48 **2. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of Regular City Council meeting held January 12, 2016
- B. City Personnel Report
- C. City of Carlsbad Department Monthly Reports:
 - 1) Arts & Culture Department Monthly Report for December, 2015
 - 2) Planning, Engineering, & Regulation Department Monthly Report for December, 2015
 - 3) Sports & Recreation Department Monthly Report for November, 2015

- 4) Utilities Department Monthly Report for December, 2015
- D. Contracts and Agreements
 - 1) Consider approval of a Mutual Aid Agreement between the City of Carlsbad Police Department and the City of Hobbs Police Department for mutual aid assistance
- E. Boards and Committee Appointments:
 - 1) Walter Gerrells Performing Arts & Exhibition Center Advisory Board: Mark Barela, remainder of 4-year term
 - 2) North Mesa Senior Recreation Center Advisory Board: Beth Fredericks, remainder of 4-year term

0:09:53 **Mayor pro tem Doss asked Chief Waller to discuss Item D.1 Consider approval of a Mutual Aid Agreement between the City of Carlsbad Police Department and the City of Hobbs Police Department for mutual aid assistance. Chief Waller** explained the City of Hobbs requested this agreement. He said the agreement is for circumstances in which if either of the police departments request outside help with law enforcement there is an agreement in place.

0:10:02 **2. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of Regular City Council meeting held January 12, 2016
- B. City Personnel Report
- C. City of Carlsbad Department Monthly Reports:
 - 1) Arts & Culture Department Monthly Report for December, 2015
 - 2) Planning, Engineering, & Regulation Department Monthly Report for December, 2015
 - 3) Sports & Recreation Department Monthly Report for November, 2015
 - 4) Utilities Department Monthly Report for December, 2015
- D. Contracts and Agreements
 - 1) Consider approval of a Mutual Aid Agreement between the City of Carlsbad Police Department and the City of Hobbs Police Department for mutual aid assistance
- E. Boards and Committee Appointments:
 - 1) Walter Gerrells Performing Arts & Exhibition Center Advisory Board: Mark Barela, remainder of 4-year term
 - 2) North Mesa Senior Recreation Center Advisory Board: Beth Fredericks, remainder of 4-year term

0:10:43 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve Routine and Regular Business

0:10:48 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doportto; The motion carried.

0:11:11 **3. CONSIDER APPROVAL OF ORDINANCE NO. 2016-04, AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT AN APPROXIMATELY 2.09 ACRE PROPERTY, LOCATED AT 407 WEST ROSE STREET, LEGALLY DESCRIBED AS TRACT A, BACA LAND DIVISION, PURSUANT TO SECTION 3-21-1 ET. SEQ. NMSA 1978, AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES, OWNER: TERRY BACA**

Mr. Jeff Patterson explained this item is a request for a zone change from "R-1" Residential to "C-2" Commercial at 407 W. Rose Street. He said the applicant wishes to place a Commercial enterprise at 407 W. Rose St. He said the surrounding zoning is Planned Unit Development (PUD) and R-1 Residential. He explained the change would create a spot zone. He said the Planning and Zoning Commission recommend denial.

Mayor pro tem Doss asked if there is a section on San Jose and Rose Street that remains residential. **Mr. Patterson** said there is a piece of property between the property requesting a zone change and San Jose Blvd that remains zoned "R-1" Residential. He explained the nearest commercial zoning is to the southeast along San Jose Blvd.

0:14:23 **Councilor Shirley** said his concern is drainage. He asked **Mr. Patterson** to explain the City's policy on drainage and what is expected of a developer. **Mr. Patterson** said when a developer is impacting their property and effecting how their property naturally drains, drainage and grating permit must be obtained from the City.

0:15:42 **A. Public Hearing**

0:15:44 **Mayor pro tem Doss** asked if anyone would like to speak in favor of Ordinance No. 2016-04.

Mrs. Terry Baca and **Mr. Andy Nestine** owners of the property came forward with handouts and pictures. **Mr. Nestine** explained the drainage was one of the concerns working against his property. He said he will comply with the drainage requirements. He explained his property has been compromised with the buildup of Southern Sky subdivision and has created a dam and disrupted the natural drainage process. He said at this point he has divided the property into two parts. He discussed the photos of debris, tissue, and feces on the property or surrounding areas. He said originally he wanted to buy property and live in an RV while building a 4-plex. He said once the 4-plex was complete he and his wife would move into one and rent out the other 3 and the area was already zoned for the need. He said after discussion with his realtor and the Planning and Zoning Department, he decided to put in temporary housing. He said he believes the temporary housing will be completed sooner and be more beneficial to the community. He explained the property has been re-divided, leaving an "R-1" buffer between the neighbors and the property they are requesting the zone change for. He said this is not just a money venture, it is their future. He explained he plans to live on the property and the property will be kept clean, neat, and safe.

0:36:47 **Councilor Rodriguez** asked Mr. Nestine if he looked at the property before purchasing the property. **Mr. Nestine** answered yes.

Councilor Whitlock asked Mr. Nestine if he has a drainage plan. **Mr. Nestine** said it was included in the site plan. **Ms. Baca** said the drainage plan was not included or required the first time they presented before Planning and Zoning Commission. She said they have taken the initiative to explain there will not be any drainage problems. **Mr. Nestine** said they are very serious about the water drainage issue and he does not want to disrupt the properties below his or next to his property.

0:39:46 **Mayor pro tem Doss** asked if anyone else would like to speak in favor of the Ordinance, no one appeared. He asked if anyone present would like to speak in opposition of the Ordinance.

Mr. Mark Deletsky said he resides at 508 Southern Sky. He explained he is a professional geologist and has concerns with the potential zoning change. He said the area has had major water drainage problems. He explained the property needs grading to the east, towards San Jose Blvd. He said he does not believe there should be a zone change to accommodate a commercial venture with so much commercial property available. He said when he moved to Carlsbad one of the major selling points of the property was that it was on the outskirts of town on a dead end street with very little traffic. He added an RV park will decrease the value of the homes in the area.

0:43:35 **Ms. Carol Levelsky** explained she is opposed to the zone change. She explained she lives in a very quiet neighborhood. She said putting a spot zoning commercial enterprise above the homes will decrease the property value and is not wanted. She is asking the Council to accept the recommendation of denial from the Planning and Zoning Commission.

0:45:53 **Ms. Cindy Phillippe** said as a neighborhood all 32 homes have signed the letter of support, called Planning and Zoning, or are present tonight to oppose the Ordinance.

0:47:13 **Ms. Tina Kitchens** a resident of the Southern Sky Subdivision and a single mother is opposed to the Ordinance. She said her concern is the drinking, drugs, and unstable people who are here to make a quick buck and then move on to the next place living in her neighborhood.

0:48:29 **Councilor Anaya Flores** said she would like to address everyone present on the issue. She asked is there any room for compromise. She said she understands the concerns and does not think temporary housing is the answer, but added there is a great need for family housing.

Ms. Baca said it will be difficult to build a subdivision due to costs. She said they would like to start slowly and build a nice facility. She added it will be permanent

because she and her husband will reside on the property. She said she plans on fencing the area and landscaping the property.

0:51:26 **Mr. Patterson** explained once the zoning is changed, whatever is allowed in the zoning is allowed on the property.

0:52:25 **Mr. Baca** explained the property would be used for RV parking not mobile homes and the buffer area will not be developed.

0:53:46 **Mr. Keith Autry**, 418 Southern Sky said he is opposed to the zone change. He explained if the C-2 zoning is approved and the property is sold to a trucking company, there is nothing that can be done.

0:54:30 **Ms. Debra Smith** a Southern Sky resident said she is opposed to the zone change. She said she also has an issue with the condition of Rose Street and more traffic will only make the street worse. She said the request does not conform to the uses in the area.

0:57:30 **B. Consider Ordinance No. 2016-04**

0:57:38 **Councilor Carter** asked under what conditions is a spot zone allowed. **Mr. Patterson** said it is up to review. He said if the spot zone still keeps the residential aesthetic of the neighborhood with the commercial enterprise in the area. He said there is nothing in the ordinance that dictates what is to be considered as far as spot zones. He said you would not want a spot zone in the middle of an established neighborhood.

0:59:38 **Councilor Whitlock** asked Ms. Riordan if she should abstain from the vote due to a family member being involved. Ms. Riordan asked what the involvement is, and added typically if there is a significant financial impact there is an issue. **Councilor Whitlock** said he and his wife both spoke on the issue tonight. **Ms. Riordan** said there is not a clear prohibition against Councilor Whitlock voting on the issue.

1:00:44 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to uphold the denial of Ordinance No. 2016-04, an Ordinance Rezoning part of "R-1" Residential District to "C-2" Commercial District an Approximately 2.09 acre property, located at 407 West Rose Street, legally described as Tract A, Baca Land Division, pursuant to Section 3-21-1 et. seq. NMSA 1978, and Section 56-150(B) and 56-140(I), Carlsbad Code of Ordinances, Owner: Terry Baca

1:00:51 **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - Shirley; Absent - Doport; The motion carried.

1:02:12 **4. CONSIDER APPROVAL OF ORDINANCE NO. 2016-05, AN ORDINANCE REZONING PART OF "R-R" RURAL RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT AN APPROXIMATELY 1.14 ACRE PROPERTY, LOCATED AT 2915 CONNIE ROAD, LEGALLY DESCRIBED AS TRACT A, PARSLEY BLOODWORTH TRACTS, PURSUANT TO SECTION 3-21-1 ET SEQ. NMSA 1978, AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES, OWNER: O'DELL ENTERPRISES, LLC**

Mr. Patterson explained this item is requesting a zone change from "R-R" Rural Residential to "C-2" Commercial District at 2915 Connie Road. He said this change would create a spot zone but there is commercial activity in the area. He said the Planning and Zoning Commission recommended approval.

1:04:41 **A. Public Hearing**

1:04:46 **Mr. McCutcheon asked if anyone would like to speak in favor of the Ordinance.**

Mr. Jesus Parsley said he purchased the property over a year ago. He said when he purchased the property it was advertised as commercial property. He explained the property is used to park semis and as temporary housing for his drivers. He said he is requesting the zone change so he can continue business here.

1:06:00 **Councilor Whitlock** asked Mr. Parsley if he is already using the property as commercial property. **Mr. Parsley** said yes, when he purchased the property it was advertised as commercial property. He said the property was previously used as commercial. He said he has been hit with legalities and is trying to become compliant. He said the City brought it to his attention. He added his neighbors are also interested in rezoning their property as commercial.

1:07:40 **Mayor pro tem** asked if anyone else would like to speak in favor of the Ordinance, no one appeared. **Mayor pro tem** asked if anyone would like to speak against the Ordinance. No one appeared and the Mayor pro tem declared the public hearing closed and reconvened the Council in regular session.

1:08:17 **B. Consider Ordinance No. 2016-05**

Councilor Nunley asked if the parcels in yellow are businesses or homes. **Mr. Patterson** said the drawing is a parcel file of property boundaries. He explained the City boundary cuts through the middle of Mr. Parsley's property making him half in the City and half out of the City.

1:10:59 **Motion**

The motion was made by Councilor Whitlock and seconded by Councilor Shirley to approve Ordinance No. 2016-05, an Ordinance rezoning part of "R-R" Rural Residential District to "C-2" Commercial District an Approximately 1.14 Acre Property, located at 2915 Connie Road, legally described as Tract A, Parsley Bloodworth Tracts, pursuant to

Section 3-21-1 et seq. NMSA 1978, and Sections 56-150(B) and 56-140(I), Carlsbad Code of Ordinances, Owner: O'Dell Enterprises, LLC

1:11:12 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doport; The motion carried.

1:11:27 **5. CONSIDER APPROVAL OF ORDINANCE NO. 2016-06, AN ORDINANCE REZONING PART OF "R-R" RURAL RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT FOR AN APPROXIMATELY 80 ACRE PROPERTY LOCATED AT 3405 BOYD DRIVE, LEGALLY DESCRIBED AS THE S/2, NE, SECTION 24, TOWNSHIP 22 SOUTH, RANGE 26 EAST, PURSUANT TO SECTION 3-21-1-ET SEQ, NMSA 1978, AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES, OWNER: DAVID & LAVERN MALEY**

Mr. Patterson explained this item is a request for a zone change from "R-R" Rural Residential to "C-2" Commercial for an approximately 80 acre lot located on Boyd Drive. He said changing the zoning will constitute a spot zone in the area. He explained the Planning and Zoning Commission reviewed the application and recommend denial of the zone change.

1:13:46 **A. Public Hearing**

1:13:50 **Mayor pro tem Doss asked if anyone would like to speak in favor of the Ordinance.**

Mr. Greg McArthur explained he is present representing the owners of the property. He said he uses the Greater Carlsbad Comprehension Plan on a regular basis in order to maintain fluidity between his business conductions and the City of Carlsbad. He explained the Plan has been a great influence on his decision making process. He explained the size of the property and the surrounding area. He explained at this time his company gives the County 5.75% of their profit. He said by moving the company into Carlsbad, their company will pay 7.44% of the profit to the City. He is requesting the Council vote to rezone the property.

1:19:19 **Mr. Don Titus** said he is an employee of M&M Excavating. He explained the property is an 80 acre parcel of land that is vacant and undeveloped. He said there are some neighbors to the north that are industrial and some that are commercial developments. He believes the goal is compliant with the Greater Carlsbad Comprehension Plan. He said the change would be beneficial to all.

1:21:04 **Mayor pro tem Doss asked if anyone else would like to speak in favor of the Ordinance, no one appeared. Mayor pro tem asked if anyone would like to speak against the Ordinance. No one appeared and the Mayor pro tem declared the public hearing closed and reconvened the Council in regular session.**

1:21:25 **B. Consider Ordinance No. 2016-06**

1:21:34 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to overturn the decision of the Planning and Zoning Commission and approve Ordinance No. 2016-06, an Ordinance rezoning part of "R-R" Rural Residential District to "C-2" Commercial District for an approximately 80 acre property located at 3405 Boyd Drive, Legally described as the S/2, NE, Section 24, Township 22 South, Range 26 East, pursuant to Section 3-21-1 et seq, NMSA 1978, and Section 56-150(B) and 56-140(I), Carlsbad Code of Ordinances, Owner: David & Lavern Maley

1:21:49 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doport; The motion carried.

1:22:18 **6. CONSIDER APPROVAL OF ORDINANCE NO. 2016-07, AN ORDINANCE REZONING PART OF "R-2" RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT FOR AN APPROXIMATELY 0.32 ACRE PROPERTY, LOCATED AT 1102 NORTH GUADALUPE STREET, LEGALLY DESCRIBED AS LOT 14, BLOCK 211, TRACY ADDITION, PURSUANT TO SECTION 3-21-1 ET SEQ. NMSA 1978, AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES, OWNER: JAMES MCCORMICK**

Mr. Patterson said this request is to change zoning at 1102 N. Guadalupe from "R-2" Residential District to "C-2" Commercial District. He explained there is mixed zoning in the area. He said this change would create a spot zone, although there is "C-2" Commercial across from the property on Pierce Street. He explained the Planning and Zoning Commission has recommended approval of the zone change.

1:24:15 **A. Public Hearing**

1:24:18 **Mayor pro tem asked if anyone would like to speak in favor of the Ordinance.**

Mr. James McCormick, owner of the property, explained the property is at the corner of Guadalupe and Pierce St. He said he purchased the property as an investment property. He explained he is renovating the property and would like to zone the property commercial.

Councilor Nunley asked what he plans to do with the property commercially. **Mr. McCormick** said possibly a beauty salon or an office. He said the property is not a large property.

Councilor Rodriguez asked if "C-2" is the most liberal of commercial zoning, allowing the most commercial businesses. **Mr. Patterson** said yes. **Mr. McCormick** explained the zoning across the street is "C-2" zoning, so he requested the same.

1:24:40 **B. Consider Ordinance No. 2016-06**

1:26:51 **Mayor pro tem Doss asked if anyone else would like to speak in favor of the Ordinance, no one appeared. Mayor pro tem asked if anyone would like to speak against the Ordinance.**

Mr. John Bowen explained he purchased his property in 1979 and has lived there and raised his family there. He said he appreciates the amenities the subdivision offers. He explained he is very familiar with the deed restrictions and subdivision restrictions which deny zone changes from residential to commercial. He said he has canvassed the neighborhood on 5 to 6 different occasions with the same response; the residents do not want commercialization in the neighborhood. He said there is no upside for the neighborhood; he feels it is an intrusion that will devalue the property. He said he has a petition with 46 signatures that are against the rezoning. He said the elective body has an obligation to their constituents and he is asking the Council to deny the zone change and preserve the integrity of the neighborhood.

Councilor Nunley asked what the zoning on the other 3 corners of the intersection are. **Mr. Patterson** said they are "R-1" and "R-2".

1:35:31 **Mayor pro tem Doss asked if anyone else would like to speak against the Ordinance, no one appeared.**

1:35:44 **Mr. James McCormick** explained he went through Planning and Zoning Commission and the neighborhood was notified. He said no one, until this moment, gave any feedback that they were opposed to the zone change. He said there was not a single person at the Planning and Zoning meeting in opposition. He said he does not believe it is fair and he fails to see how changing the zoning of one property on the corner will affect the neighborhood.

Mr. Bowen said he has been before Council in the past and it was incumbent upon the developer to canvass the neighborhood prior. He explained at this time the developer only needs to notify those within 100 foot radius. He said he does not believe those within 100 foot radius represent the entire neighborhood.

1:38:51 **Mr. McCormick** explained he sent notification to those within the 100 foot radius. He said he had a verbal conversation with one of his neighbors and the concern was if the change would affect their property, he urged them to speak with Mr. Patterson. He said once they spoke to Mr. Patterson, the neighbors told him they did not have any problems with the zone change.

Mr. Bowen said there were only 3 people notified and that is an extremely shallow opinion of those that live in the neighborhood.

Ms. Danita McCormick explained she is a hair dresser and the original intent is for a nice salon. She explained the building faces Pierce Street and was a rental property. She said they have gutted the property and will need to replace everything. She said if she is not able to make the property into a salon she will turn the home back into rental property. She said there is only one working toilet, so she may as well open the home up to the homeless. She said the neighborhood would like to keep the tradition, but times have changed and there are commercial properties on all corners and it is time to move forward. **Mr. Bowen** said tradition has nothing to do with the opposition. He said it is deed restrictions and subdivision restrictions that prevail. He ended by saying this neighborhood does not want commercialization.

1:43:29 **Mayor pro tem Doss** asked if anyone else would like to speak regarding the proposed Ordinance. No one appeared and the Mayor pro tem declared the public hearing closed and reconvened the Council in regular session.

1:43:46 **B. Consider Ordinance No. 2016-07**

1:43:52 **Councilor Carter** asked Mr. Bowen if the problem is with the future development of the property, the zone change or the use. **Mr. Bowen** said all of the above.

Councilor Nunley asked how long the property has been vacant. **Mr. Bowen** said he does not know. **Mr. McCormick** said he purchased the home over a year ago and it was vacant for about 3 or 4 years prior to the purchase.

Councilor Nunley asked Ms. Riordan if she was with the City when the deed restrictions were enforced in District Court. **Ms. Riordan** said she has a vague recollection of a suit about 10 years ago.

1:48:27 **Motion**

Councilor Rodriguez said given the fact that this is a zone change and what has been purported as the intent could be done under a special use permit he made a motion.

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to deny approval of Ordinance No. 2016-07, an Ordinance Rezoning part of "R-2" Residential District to "C-2" Commercial District for an approximately 0.32 acre property, located at 1102 North Guadalupe Street, legally described as Lot 14, Block 211, Tracy Addition, pursuant to Section 3-21-1 et seq. NMSA 1978, and Sections 56-150(B) and 56-140(I), Carlsbad Code of Ordinances, Owner: James McCormick

Councilor Shirley asked based on the suggestion of a special use permit, could Mr. McCormick reapply if he desired. **Mr. Patterson** said he would have to see if the type of business they want to do is allowed in "R-2" zoning. He said if the business is a conditional use the request would go back to the Planning and Zoning Commission.

Mr. Patterson said Mr. McCormick can come back with a different type of request but could not come back immediately with a different zone change.

1:50:41 **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez; No - Shirley, Nunley; Absent - Doporto; The motion carried.

1:51:22 **7. CONSIDER APPROVAL OF RECOMMENDATION FOR THE PROPOSED CONFIGURATION OF THE LEA AND STANDPIPE INTERSECTION**

1:51:40 **A. Remove from Table**

1:51:41 **Motion**

The motion was made by Councilor Nunley and seconded by Councilor Carter to Remove from Table

1:51:50 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doporto; The motion carried.

1:52:08 **B. Consider Recommendation**

Mr. McCutcheon explained Mayor Janway appointed a committee to review the request. He said Councilor Doporto, Councilor Anaya Flores, and Councilor Rodriguez were on the committee. He explained the committee had discussions with the County and the City and tonight have the final recommendation. He said the concern was that the intersection would not accommodate the truck traffic in the area.

He presented the changes requested by the committee:

- 200' area with no parking on 6th Street to relieve congestion
- Move traffic light back
- Acquire corner section from Allsup's to improve radius
- Include jug handle lane from Lea to Standpipe

Mr. McCutcheon explained the City is in the process of applying for federal funds. He said the City does not have enough budget currently to handle this particular request.

Mayor pro tem Doss asked Mr. Carlson for the additional cost to the proposed plan.

Mr. Carlson said the cost has not been identified, the scope is not exact, and the cost of the land purchase has not been determined. He said if the City is successful in receiving federal funds the cost could be under \$1 million, if not the City's portion would be \$1.8 million.

Mr. McCutcheon explained the project is a joint project between the City and the County with the City's portion being 40%. He said most people feel this

recommendation will meet the needs and if necessary another jug handle could be constructed at a later time.

Mayor pro tem Doss asked if the County has approved the recommendation. **Mr. McCutcheon** said no and explained if the City approves the recommendation it will go to the County for review and approval.

Councilor Rodriguez said heavy truck traffic in the area is very bad. He said when a big rig is turning right off of Lea onto Standpipe and there are other vehicles northbound on Standpipe, the big rigs cannot make the turn and is is very dangerous.

Councilor Anaya Flores asked if the channelization is completed will the corner still be needed. **Councilor Rodriguez** said yes, the radius would still be needed.

Mr. Wes Hooper, the County Community Services Director, said that he understood the jug handles were to be a phased project. He said the road project is estimated at \$3.3 million and the traffic lights will add an additional \$1 million. He said the jug handles add \$400K and does not include any land purchasing.

Mr. Sanchez with Pettigrew & Associates, said at this point the jug handles will not be part of the SERTPO application. He explained at this time what is before Council to decide is the road repairs which is the \$3.3 million and Phase 1 which includes restricted parking on 6th Street, an additional lane, increase in radius next to Allsup's, and street lights. **Mr. Hooper** said the County's opinion is if the jug handles are included there is concern that the price will be too high. **Mr. Sanchez** said the SERTPO application is based on a scoring point system and if right-a-way acquisitions are necessary they will lose points. He said at this time he does not recommend adding this Phase to the application.

Mr. McCutcheon explained the City would like the SERTPO application to go forward and the City and the County could work together and add the jug handle that is proposed outside the SERTPO application with a 60/40 split.

2:08:57 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Shirley to approve recommendation for the proposed configuration of the Lea and Standpipe intersection

2:09:06 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doport; The motion carried.

2:09:49 **8. CONSIDER APPROVAL OF THE NOTICE OF CANDIDATES FOR OFFICE AND THE PRECINCT BOARD MEMBERS FOR THE CITY OF CARLSBAD, MARCH 1, 2016 REGULAR MUNICIPAL ELECTION**

Ms. Barrick explained the candidates are listed along with the poll workers who have been contacted by phone. She said the listed polling places have been secured and the time to withdrawal for candidacy has expired.

2:11:01 **Motion**

The motion was made by Councilor Nunley and seconded by Councilor Rodriguez to approve Notice of Candidates for Office and the Precinct Board members for the City of Carlsbad, March 1, 2016 Regular Municipal Election

2:11:06 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doport; The motion carried.

2:11:25 **9. CONSIDER APPROVAL TO SERVE WINE AND BEER WITH FOOD AT CERTAIN DINNERS/RECEPTIONS OFFERED TO ADULT AUDIENCES IN 2016 AT CARLSBAD MUSEUM**

Ms. Patsy Jackson Christopher explained recently the Museum Board was before Council to ask permission to serve wine and beer at a singular event. She said the event went very well with no incidents. She said there are future events that people have shown interest in serving wine and beer. She explained the Museum Board is asking for permission to have wine and beer with food for these special types of events during the calendar year of 2016. She said there will be no more than 6 events that will be tied to exhibit openings, or business dinners.

Mayor pro tem Doss asked if this eliminates under age children at the events. **Mr. Jackson Christopher** said children are not invited to these events.

2:13:30 **Motion**

The motion was made by Councilor Anaya Flores and seconded by Councilor Carter to approve to serve Wine and Beer with food at certain dinners/receptions offered to adult audiences in 2016 at the Carlsbad Museum

2:13:34 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doport; The motion carried.

2:13:46 **10. REVIEW UPDATE OF PREVIOUSLY CONSIDERED PROPERTY LOCATED AT 701 N. HALAGUENO ST.**

Mr. Danny Jones explained the property has changed hands and the new owner is working with Trend Builders. He explained a permit was issued today and said the house has been completely gutted.

Councilor Rodriguez said he is glad to hear there has been progress.

2:16:15 **11. CONSIDER APPROVAL OF EXPANSION OF LIQUOR LICENSE PREMISES FOR THE BREWER CHEVRON AT NORTHGATE**

Mr. McCutcheon explained in 2007 the license was approved by Council. He said the license has sat dormant awaiting the rebuild of the Brewer at Lamont and Pierce Street. He explained the liquor license regulatory authority contacted the City stating the Council needs to reauthorize the location because it was built larger than the original location.

2:17:30 **Motion**

The motion was made by Councilor Nunley and seconded by Councilor Rodriguez to approve expansion of Liquor License premises for the Brewer Chevron at Northgate

2:17:34 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doport; The motion carried.

2:17:47 **12. CONSIDER APPROVAL OF AFFORDABLE HOUSING CONTRIBUTIONS FOR TIERRA DEL SOL HOUSING CORPORATION FOR THE REHABILITATION OF THE LA POSADA AND MISSION APARTMENTS**

Mr. Patterson explained the City has an affordable housing ordinance which allows the City to contribute to affordable housing projects that are proposed to the City. He said Tierra Del Sol Housing Corporation has submitted an application proposing to rehabilitate the La Posada and Mission Apartments. He explained he has reviewed the application and found the applicant a qualifying grantee. He explained once verified as a qualified grantee the application is sent to New Mexico Mortgage Finance Authority (NMMFA), which he has done. He said the NMMFA has notified him that Tierra Del Sol Housing Corporation is a qualifying grantee. He explained that Council shall review and approve the budget the applicant has submitted and then approve the resolution supporting the Affordable Housing Project. He explained the City did not budget to contribute to an Affordable Housing Project for this fiscal year. He said he looked into the budget to see where the cost could be reimbursed to and identified costs that could be contributed to infrastructure. He said the Planning and Zoning Commission recommended approval for reimbursement up to \$155,000 for the project. He explained the applicant has to submit their application to the state by February 1st to receive tax credits. He said for Council to allow the city to contribute to one of these projects, an ordinance will need to be passed. He said by passing a resolution in lieu of an ordinance at this time will allow the applicant to be awarded the needed tax credits to move forward on the project.

Mayor pro tem Doss said the passing of a resolution supporting the proposed Affordable Housing Project does not necessarily obligate the City to the funds if they are not available. **Mr. Patterson** said that is correct, and said he will bring an ordinance

before Council soon. He said staff is hoping the resolution will allow the applicant to receive the points needed, until the City passes the ordinance.

Mr. McCutcheon said the City does have budgeted funds in the reimbursement account at this time which would cover this application.

2:23:14 **A. Approval of Application and Preliminary Budget**

2:23:15 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Anaya Flores to approve Application and Preliminary Budget

2:23:29 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doporto, Doss, Nunley, Rodriguez; No - None; Absent- None; The motion carried.

2:23:46 **B. Approval of Resolution No. 2016-07, a Resolution supporting the proposed affordable housing project**

2:23:52 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Nunley to approve Resolution No. 2016-07, a Resolution supporting the proposed Affordable Housing Project

2:23:58 13. CONSIDER APPROVAL OF AFFORDABLE HOUSING CONTRIBUTIONS FOR NM INTER-FAITH COMMUNITY HOUSING DEVELOPMENT CORPORATION FOR THE REHABILITATION OF THE COLONIAL HILLCREST APARTMENTS

Mr. Patterson explained this is the same as the prior request. He explained the applicant and proposal are different. He said NM Inter-Faith Community Housing Development Corporation is proposing to rehabilitate the Colonial Hillcrest Apartments on 5th Street. He said NM Inter-Faith Community Housing Development Corporation is under the same deadline to have their application to the State by February 1. He explained passing the resolution in place of the ordinance is so the applicant can receive the needed points on their application. He added the Planning and Zoning Commission also recommended \$155,000 reimbursement.

Councilor Whitlock said there was an article in the paper announcing that Colonial Hillcrest Apartment would be renovated. She asked if this is the same company that started the process. **Mr. Patterson** said no, this is a different applicant at the same property.

2:25:49 **A. Approval of Application and Preliminary Budget**

2:25:50 **Motion**

The motion was made by Councilor Whitlock and seconded by Councilor Shirley to approve the Application and Preliminary Budget

2:26:03 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doport; The motion carried.

2:26:21 **B. Approval of Resolution No. 2016-08, a Resolution supporting the proposed affordable housing project**

2:26:33 **Motion**

The motion was made by Councilor Whitlock and seconded by Councilor Anaya Flores to approve Resolution No. 2016-08, a Resolution supporting the proposed Affordable Housing Project

2:26:39 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doport; The motion carried.

2:26:55 **14. COUNCIL COMMITTEE REPORTS**

2:27:13 **Councilor Whitlock** invited Council to attend the Growing Bolder health fair that the Age Friendly Communities will be hosting on February 27, 2016 from 9:00 a.m. to 4:00 p.m. at the PRV.

Councilor Nunley asked if the Boy Scout troop would like to come up and receive a City of Carlsbad pin.

2:29:25 **15. ADJOURN**

2:29:29 **Motion**

The motion was made by Councilor Whitlock and seconded by Councilor Rodriguez to Adjourn

2:29:38 **Vote**

The vote was as follows: Yes - Shirley, Carter, Whitlock, Anaya Flores, Doss, Nunley, Rodriguez; No - None; Absent - Doport; The motion carried.

2:29:54 **Adjourn**

There being no further business, the meeting was adjourned at 8:31 p.m.

/s/Dale Janway
Mayor

ATTEST:

/s/Annette Barrick
City Clerk

MINUTES OF THE REGULAR MEETING OF THE

**City of Carlsbad
Planning & Zoning Commission**

January 4, 2016, at 5:00 p.m.

Meeting Held in the Planning Room

CITY OF CARLSBAD
CARLSBAD, NEW MEXICO

PLANNING AND ZONING COMMISSION

Monday, January 4, 2016, at 5:00 PM

Municipal Building 101 N. Halagueno Street
Planning Room (Second Floor)

1. Roll call of voting members and determination of quorum.
2. Approval of Agenda.
3. Approval of Minutes from the Meeting held December 7, 2015.
4. Consider recommendation for an Infrastructure Reimbursement Application for Tierra Del Sol Housing Corporation for rehabilitation of an affordable housing apartment complex.
5. Consider recommendation for an Infrastructure Reimbursement Application for New Mexico Inter-Faith Community Housing Development Corporation for an affordable housing apartment complex.
6. Consider an Appeal (variance) from Section 56-90(b) Table 6 to allow a front-yard setback variance of 30' from the front property line, which would result in a 9' front-yard setback at 1803 Solana Rd., zoned "R-1" Residential District.
7. Consider an Appeal (variance) from 56-90(b) Table 6 to allow a frontage variance for 5, 1 acre lots to front on a private drive.
8. Consider a Preliminary Plat for Hackberry View Subdivision located at 3001 W. Texas St. creating 5, 1 acre lots.
9. Consider an Appeal (variance) from Section 56-42(t)(1)(c)(i) to allow a number of lots variance of 11 which is 13 short of the required 24, at 2126 W. Texas St. a Mobile Home Park.
10. Consider an Appeal (variance) from Section 56-42(t)(1)(a) to allow a number of acres variance of 1.22 which is 1.78 short of the required 3, at 2126 W. Texas St. a Mobile Home Park.
11. Consider granting a Conditional Use Permit to allow a mobile home park located at 2126 W. Texas St, zoned C-2 Commercial District, in accordance with Section 56-150(f).
12. Report regarding Summary Review Subdivisions.
13. Adjourn.

If you require hearing interpreters, language interpreters, auxiliary aids in order to attend and participate in the above meeting, please contact the City Administrator's offices at (575) 887-1191 at least 48 hours prior to the scheduled meeting.

MINUTES OF A REGULAR MEETING OF THE CITY OF CARLSBAD PLANNING & ZONING COMMISSION HELD IN THE MUNICIPAL BUILDING PLANNING ROOM, 101 N. HALAGUENO STREET, JANUARY 4, 2016, AT 5:00 P.M.

VOTING MEMBERS PRESENT:

**JAMES MCCORMICK
LASON BARNEY
WANDA DURHAM
BRIGIDO GARCIA**

**COMMISSION SECRETARY
COMMISSIONER
COMMISSIONER
COMMISSIONER**

VOTING MEMBERS ABSENT:

JAMES KNOTT

CHAIRPERSON

EX-OFFICIO MEMBERS PRESENT:

**JEFF PATTERSON
GEORGIA GOAD**

**PLANNING DIRECTOR
PLANNING DEPUTY DIRECTOR**

SECRETARY PRESENT:

PATTIE PISTOLE

**PLANNING, ENGINEERING
AND REGULATION DEPARTMENT
SECRETARY**

OTHERS PRESENT:

**SHANNON SUMMERS
WILLIAM P. MILLER
VI MILLER
GARY HARDESTY
JERRY SAMANIEGO
JONATHAN SAMANIEGO
J.R. DOPORTO
CASEY SOWERS
MELISSA LAWRENCE-BRIDGES**

**CDOD
1802 MANZANA ROAD
1802 MANZANA ROAD
1803 SOLANA

2514 W. WYOMING
3022 NATIONAL PARKS HIGHWAY
1007 N. HOWARD**

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:00 Start Recording [5:02:18 PM]

0:00:27 **1. Roll call of voting members and determination of quorum.**

Roll was called, confirming the presence of a quorum of commission members. Present – **Ms. Durham, Mr. McCormick, Mr. Barney, Mr. Garcia**; Absent – **Mr. Knott**.

0:00:53 **2. Approval of Agenda.**

Ms. Durham made a motion to approve the Agenda, and **Mr. Barney** seconded the motion. The vote was as follows: **Yes – Ms. Durham, Mr. McCormick, Mr. Barney, Mr. Garcia**; No – None; Abstained – None; Absent – **Mr. Knott**. The motion carried.

0:01:18 **3. Approval of Minutes from the Meeting held December 7, 2015.**

Ms. Durham made a motion to approve the Minutes; **Mr. Barney** seconded the motion. The vote was as follows: **Yes – Ms. Durham, Mr. McCormick, Mr. Barney, Mr. Garcia**; No – None; Abstained – None; Absent – **Mr. Knott**. The motion carried.

0:01:56 **4. Consider recommendation for an Infrastructure Reimbursement Application for Tierra Del Sol Housing Corporation for rehabilitation of an affordable housing apartment complex.**

Mr. Patterson explained that this is a multi-million dollar project that qualifies for up to 1.78 million, but the City only has \$300,000 in the budget. The City could do a budget adjustment, if we need more money for other developers later. Splitting the existing money in half would give \$150,000 each for this project and the next item on the agenda, but the applicant needs \$155,000 to get enough points for state funding. The more we give them, the more they can get from the State. (Their deadline is February 3 for that funding.) The City Council will have to approve any funding recommended by the Planning and Zoning Commission, and the funds will not be disbursed until the work is completed. **Mr. Patterson** also pointed out that this project is just to rehabilitate the existing units; it is not to increase the number of units. There was no public comment.

Ms. Durham made a motion to recommend approval of \$155,000 for the Infrastructure Reimbursement. **Mr. Garcia** seconded the motion. The vote to recommend approval was as follows: **Yes – Ms. Durham, Mr. McCormick, Mr. Barney, Mr. Garcia**; No – None; Abstained – None; Absent – **Mr. Knott**. The motion carried.

0:15:23 **5. Consider recommendation for an Infrastructure Reimbursement Application for New Mexico Inter-Faith Community Housing Development Corporation for an affordable housing apartment complex.**

Mr. Patterson said that this item is like the previous one. It is more detailed in the packet than the first one. They think they are qualified for \$1,616,485 million, and they have a lot of experience with the State and in putting together their applications. Staff recommends the \$155,000 reimbursement.

Ms. Durham made a motion to recommend approval of \$155,000 for the Infrastructure Reimbursement. **Mr. Garcia** seconded the motion. The vote to recommend approval was as follows: **Yes – Ms. Durham, Mr. McCormick, Mr. Barney, Mr. Garcia**; No – None; Abstained – None; Absent – **Mr. Knott**. The motion carried.

0:18:58 **6. Consider an Appeal (variance) from Section 56-90(b) Table 6 to allow a front-yard setback variance of 30' from the front property line, which would result in a 9' front-yard setback at 1803 Solana Rd., zoned "R-1" Residential District.**

Mr. Patterson said that Staff is recommending denial. Setbacks are for buffers and provide access for emergencies. In this zone, the front setback is 30'. **Mr. Hardesty** explained that he is 74 years old and had just purchased his last car. He wants to protect it from the frequent hail. He said it is not an access issue, because a gurney can still go through the front door, and emergency vehicles park in the street. He said he thought the standards had relaxed since all the metal carports were being put up in town, so he

went ahead and built it without asking about a building permit. During public comment, several people spoke in favor of the Variance. **Ms. Pistole** said she picks up her granddaughter for school four days a week next door and that the carport does not block her view at all in backing up. The carport is set back nine feet from the sidewalk, and there is an expanse of grass between the sidewalk and the street. **Mr. Miller** agreed there is no visual blockage and that our insurance goes up with each hailstorm. The carport has open sides, and any emergency services would have no problem getting to the front door. **Ms. Lawrence-Bridges** added that vehicles might block a view, but the open carport didn't. She hoped it was approved. **Mr. Garcia** said that the Veilleuxs on the street over who sent an e-mail were afraid of what would be put under the carport. It might end up an open storage in front. **Mr. Miller** argued that if anything was left out, it wouldn't stay there long, because someone would report it and it would be taken care of. **Mr. McCormick** explained that the ordinance for a 30' setback was for visibility and that the applicant should have gotten a permit to begin with. **Ms. Durham** said it sets a bad example to just put something up and then go ask for a variance. The commissioners have to make hard decisions. She doesn't feel good about having it moved, but he should have checked ahead of time. **Mr. Patterson** noted that if this carport is allowed to stay, it would not be an open door for others. Planning and Zoning can make a decision, but it does not set the precedence for others. It is on a case by case basis. It doesn't mean the house next door would get a variance.

Mr. Barney made a motion to deny approval of the Variance. **Ms. Durham** seconded the motion to deny. The vote to deny was as follows: **Yes – Ms. Durham, Mr. Garcia, Mr. Barney**; **No – Mr. McCormick**; **Abstained – None**; **Absent – Mr. Knott**. The motion carried to deny the Variance. **Mr. Patterson** then explained the appeal process to **Mr. Hardesty**.

0:49:03 **7. Consider an Appeal (variance) from 56-90(b) Table 6 to allow a frontage variance for 5, 1 acre lots to front on a private drive.**

Mr. Patterson stated that the applicant wants to subdivide five acres on West Texas, but there isn't frontage on a City street to do so. **Mr. Doport** wants to install a private drive to count as frontage. Staff recommended denial. **Mr. Doport** explained that he wants to put in a private drive on the west side, and a fence on Texas Street with a locked gate. The houses would face west, with a view of the mountains towards Hackberry. Lots would be one-acre each, which is hard to find in Carlsbad. There would be an easement, not an alley, for utilities (water, gas and electric). It would all be privately installed and maintained. Each lot owner would put in their own septic tank, which they would qualify for because of the size of the lots. There would be a 30' x 500' ROW where the 12'-wide private road would go, made of asphalt with little curbs. There was discussion about addressing, the narrow width of the road, and giving the code for the gate to emergency personnel. During public comment, **Ms. Summers** from CDOD stated that it sounds like an exciting project for Carlsbad, and she is in favor of it.

Mr. Barney made a motion to approve the Variance for a private drive with a 30' ROW. **Mr. Garcia** seconded the motion. The vote was as follows: **Yes – Ms. Durham, Mr. McCormick, Mr. Barney, Mr. Garcia**; **No – None**; **Abstained – None**; **Absent – Mr. Knott**. The motion carried.

1:17:07 **8. Consider a Preliminary Plat for Hackberry View Subdivision located at 3001 W. Texas St. creating 5, 1 acre lots.**

Mr. Patterson explained that this is in regards to the property in the previous item. The applicant has talked to the City regarding utilities. Conditions for approval may be placed on the plat by the commissioners. Staff recommends approval. There was a question about the different names on the two applications. **Mr. Doport** said that they are both him. Reynaldo K. is his official name, and J.R. is what he goes by on City Council. The property in question will have 5' side setbacks, 20' back setback, and

15' front setback. **Mr. Doporto** plans to build on the middle lot, in case the others do not sell. There was discussion about placing stipulations on the plat regarding installing utilities before final approval, but it was decided that the easements and private road serve to insure that the properties in the back will have access.

Mr. Barney made a motion to approve the Preliminary/Final Plat. **Ms. Durham** seconded the motion. The vote was as follows: **Yes – Ms. Durham, Mr. McCormick, Mr. Barney, Mr. Garcia**; No – None; Abstained – None; Absent – **Mr. Knott**. The motion carried.

1:45:02 **9. Consider an Appeal (variance) from Section 56-42(t)(1)(c)(i) to allow a number of lots variance of 11 which is 13 short of the required 24, at 2126 W. Texas St. a Mobile Home Park.**

The property is the same as that considered about a year ago. **Mr. Patterson** stated that the property was a mobile home park at one time, and had been completely cleared off. The current owner wants another mobile home park, and wants to go through the process for permission to have a park there now. There is not enough acreage for 24 spaces, if all the setbacks are followed, so he wants to have 11. That way there is ample room for all the setbacks. The same request was granted by P & Z in December of 2014 for a different applicant and owner. **Mr. Sowers** explained that he has cleared the land and put in fencing. The state of the park was really bad when he started. He wants to do everything the right way. He also would prefer not to have full-size mobile homes, but have park homes. They are permanently set, with full-size appliances, more like small one-bedroom homes. It was brought up that the satellite photo in the packet shows the old mobile homes still there, and there was a question about all the old trailers behind Suzy Q's. It was clarified that the photo was from over a year ago, and those were all moved from his property to there. **Mr. Sowers** had stipulated that he would not buy the property until they were all moved. **Mr. Patterson** said Code Enforcement is dealing with them to get them permanently removed now. There is one older, handicapped lady living on the property in a mobile home who has been there since before the park started to deteriorate. He does not want to disturb her, because she has been there so long. During public comment **Mr. Doporto** commented how the property had been cleaned up and what a great job they did. For years and years it had been run-down and nasty. When the old lady came there, it was a nice park. He was in favor of the variance. **Ms. Summers** said it is nice to see it get cleaned up, and encourages this type of housing in the area. It would be a good direction to point people when they ask about housing. She supports it. **Mr. Jerry Samaniego** explained that he also had had a park in town that was completely closed and cleaned up and the last guy officially closed down. He understood now, that since it is a new owner the process has to start again, and that they were doing a good job.

Ms. Durham made a motion to approve the Variance. **Mr. Barney** seconded the motion. The vote was as follows: **Yes – Ms. Durham, Mr. McCormick, Mr. Barney, Mr. Garcia**; No – None; Abstained – None; Absent – **Mr. Knott**. The motion carried.

2:01:23 **10. Consider an Appeal (variance) from Section 56-42(t)(1)(a) to allow a number of acres variance of 1.22 which is 1.78 short of the required 3, at 2126 W. Texas St. a Mobile Home Park.**

This is the same property discussed in the previous item. There was no public comment.

Ms. Durham made a motion to approve the Variance, and **Mr. Barney** seconded the motion. The vote was as follows: **Yes – Ms. Durham, Mr. McCormick, Mr. Barney, Mr. Garcia**; No – None; Abstained – None; Absent – **Mr. Knott**. The motion carried.

2:04:40 **11. Consider granting a Conditional Use Permit to allow a mobile home park located at 2126 W. Texas St, zoned C-2 Commercial District, in accordance with Section 56-150(f).**

Mr. Patterson told the commissioners that this is the same property as in the previous two items. Staff recommended approval if the two previous variances were approved, regarding minimum number of lots and minimum amount of acreage (which they were), and that they get and maintain a yearly business registration.

Mr. Barney made a motion to approve the Conditional use with the conditions discussed, and **Ms. Durham** seconded the motion. The vote was as follows: **Yes – Ms. Durham, Mr. McCormick, Mr. Barney, Mr. Garcia**; No – None; Abstained – None; Absent – **Mr. Knott**. The motion carried.

2:08:33 **12. Report regarding Summary Review Subdivisions.**

There was brief discussion of the plats signed by the commission designees during the previous month.

2:11:03 **15. Adjourn.**

There being no further business, the meeting was adjourned.

2:11:11 Stop Recording [7:13:29 PM]

Chairman

Date

**PERFORMANCE AGREEMENT BETWEEN THE CITY OF CARLSBAD AND
THE NEW MEXICO INTER-FAITH COMMUNITY HOUSING DEVELOPMENT
CORPORATION
PURSUANT TO ORDINANCE NO. 2006-05,
ESTABLISHING AN AFFORDABLE HOUSING PROGRAM
AND AUTHORIZING THE REIMBURSEMENT OF QUALIFYING INFRASTRUCTURE
INSTALLED AT THE COLONIAL HILLCREST APARTMENTS**

THIS AGREEMENT is entered into at Carlsbad, New Mexico, this ____ day of _____, 2016 by and between the CITY OF CARLSBAD, New Mexico, a municipal corporation, hereinafter referred to as "City" and the NEW MEXICO INTER-FAITH COMMUNITY HOUSING DEVELOPMENT CORPORATION, a New Mexico nonprofit corporation, hereinafter referred to as "NMIFCHD".

WHEREAS, as permitted by the Affordable Housing Act, NMSA 1978, 6-27-1, et sec. (the Act), the City of Carlsbad adopted Ordinance No. 2006-05 (the Ordinance) establishing an affordable housing program; and

WHEREAS, as required by the Act and the Ordinance, the City submitted to the New Mexico Mortgage Finance Authority (MFA) the housing element of the Greater Carlsbad Comprehensive Plan: Strategy 2030; and

WHEREAS, pursuant to the Act and the Ordinance, the City may donate infrastructure reimbursement for qualifying infrastructure to a Qualifying Grantee for an approved Affordable Housing Project as defined by the Act; and

WHEREAS, the New Mexico Inter-Faith Community Housing Development Corporation is a New Mexico nonprofit organization; and

WHEREAS, NMIFCHDC has submitted an application to become a Qualifying Grantee and to obtain infrastructure reimbursement for an Affordable Housing Project; and

WHEREAS, NMIFCHDC has developed and implemented a program in which it, in partnership with the Colonial Housing Partners, LLLP, will purchase and rehabilitate the Colonial Hillcrest apartments which shall be used as Affordable Housing; and

WHEREAS, NMIFCHDC's application was reviewed by the Carlsbad Planning Director and approved on 22 December 2015; and

WHEREAS, on 05 January 2016, the MFA notified the City that it had reviewed the application of NMIFCHDC and determined that the application is complete and that the requirements

of the Act and the Rules have been satisfied and NMIFCHDC is a Qualifying Grantee; and

WHEREAS, the Act and the Ordinance require that the City enter into a contract with a Qualifying Grantee consistent with the Act, which contract shall include remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee; and

WHEREAS, such a contract shall be subject to the review of the MFA in its discretion; and

WHEREAS, the City and NMIFCHDC entered into a contract in January 2016 pursuant to which the City agreed to reimburse an amount of up to \$155,000.00 for installed, qualifying infrastructure at the Colonial Hillcrest apartments to NMIFCHDC for use in its affordable housing program; and

WHEREAS, NMIFCHDC rehabilitated the Colonial Hillcrest apartments and the property is currently occupied by occupants pursuant to the affordable housing requirements; and

NOW, THEREFORE, FOR CONSIDERATION SPECIFIED HEREIN THE PARTIES AGREE AS FOLLOWS:

1. **Definitions.** In addition to the definitions provided herein, terms used in this Agreement shall have the same definition as in the Ordinance, except where the context clearly indicates a different meaning.

A. **Affordability Period.** The amount of reimbursement for qualifying infrastructure is a total of not more than (\$155,000.00). Pursuant to Section 24-53(4) of the Ordinance, the Affordability Period for the amount of reimbursement of that value is not less than twenty (20) years from the date of occupation of the Property as Affordable Housing. NMIFCHDC shall provide the City with written notice of the date on which the Affordability Period began.

B. **Affordable Housing.** Affordable Housing means residential housing primarily for Persons or Households of Low or Moderate Income.

C. **Project.** The Project means the Affordable Housing Project described by NMIFCHDC in its Application as approved by the City and by MFA.

2. **Reimbursement of Qualifying Infrastructure Costs.** In consideration for the services provided by NMIFCHDC pursuant to the terms of this Agreement and compliance with the Act and the Ordinance, the City shall reimburse to NMIFCHDC the actual costs resultant from the installation of qualifying infrastructure, as defined by the Ordinance and designated by the City, for the Project. The reimbursement shall occur after the completion of the Project.

3. **Services Provided by NMIFCHDC.** In consideration for the City reimbursing the qualifying infrastructure for this Affordable Housing Project, NMIFCHDC agrees:

A. **Use of Reimbursement.** The reimbursement which has been acquired from the City

pursuant to this Agreement shall be used pay for infrastructure costs of qualifying infrastructure as designated by the City, and only for the Project.

B. **Security Provisions.** In the event that:

- i. NMIFCHDC abandons or fails to complete the Project; or
- ii. The Project fails to meet the requirements set forth in the Act, the Ordinance, the Rules, or in any other applicable federal, state or local law, rule, or regulation; or
- iii. The apartments and any buildings, appurtenances, fixtures, or improvements constructed or placed in or on it are not maintained as multiple-family Affordable Housing for the duration of the Affordability Period.

then NMIFCHDC shall pay to the City a pro rated amount of the total amount of reimbursement of the qualifying infrastructure installed. Such payment shall be made within sixty (60) days after written demand from the City. The pro rated amount to be paid shall be determined by multiplying the total amount of reimbursement of the qualifying infrastructure by the percent of the Affordability Period remaining. The parties agree the total amount of reimbursement is not more than One Hundred Fifty Five Thousand dollars(\$155,000.00). NMIFCHDC shall also pay, as may be permitted by law, any and all attorneys' fees and costs which the City and/or the MFA may incur in enforcing the provisions of the Ordinance, the Rules, the Act and/or this Agreement.

C. **Performance Schedule and Criteria.** Within two (2) years of the execution of this Agreement by both parties, NMIFCHDC shall have completed the rehabilitation of the property and the units shall be occupied by Persons of Low or Moderate Income.

D. **Examination of Books and Records.** NMIFCHDC shall submit to such examination of the books and records of NMIFCHDC as the City and/or MFA deems necessary or appropriate to determine NMIFCHDC's compliance with the terms of the Act, the Rules, the Ordinance, and this Agreement. The City and/or MFA may require NMIFCHDC to pay the costs of any such examination.

E. **Additional Information.** NMIFCHDC shall provide the City with any and all information which the City reasonably may require in order for it to confirm that NMIFCHDC continues to satisfy the requirements of the Act, the Rules, the Ordinance and this Agreement throughout the duration of the Affordability Period.

F. **Consent to Jurisdiction.** NMIFCHDC consents to the jurisdiction of the courts of the State of New Mexico over any proceeding to enforce compliance with the terms of the Act, the Rules, the Ordinance, and this Agreement.

G. **Compliance.** NMIFCHDC shall comply with all applicable provisions of the Act, the Rules, the Ordinance, and any other applicable federal, state and local laws, rules and ordinances. NMIFCHDC shall provide the City with any certifications or other proof that the City may require in order for the City and/or MFA to confirm that NMIFCHDC and the Project are in compliance. NMIFCHDC shall monitor the compliance of the Project and the

use of the Lot for the duration of the Affordability Period. NMIFCHDC shall notify the City in writing if at any time the Project does not meet the applicable requirements.

H. **Recertification.** Carlsbad may establish procedures for the Recertification of NMIFCHDC from time to time. NMIFCHDC shall comply with all applicable procedures for Recertification. Should NMIFCHDC fail to satisfy the requirements for Recertification, it shall cease to be eligible and shall be denied further participation in Affordable Housing programs until the requirements of the City and MFA are satisfied.

I. **Progress Reports.** NMIFCHDC shall prepare and submit:

- i. Written progress reports as requested by the governing body of the City.
- ii. Annual operation and management reports in a format to be agreed to by the parties which shall be due no later than July 1st of each year.

J. **Personnel, Labor, and Materials.** NMIFCHDC shall provide all personnel, labor, materials, supplies, equipment, and tools needed to perform the Project. NMIFCHDC shall be solely responsible for the selection, training, supervision, and retention of such personnel, for all work performed, and for the selection, operation, maintenance, and repair of all materials, supplies, equipment, and tools.

K. **Additional Duties.** NMIFCHDC shall perform such additional duties as may from time to time be mutually agreed to by the parties.

4. **Approval by MFA.** The parties know and understand that this Agreement is subject to review and approval by MFA. In the event MFA does not approve this Agreement, then this Agreement is terminated and the City shall not incur any penalty or further liability.

5. **Term.** The term of this Agreement shall begin upon the completion of all of the following events:

- A. **Execution.** The full execution of this Agreement by all parties;
- B. **Ordinance Effective Date.** The ordinance authorizing the Housing Assistance Grant becomes effective; and
- C. **MFA Approval.** This Agreement and the related ordinance are approved by MFA.

The term of this Agreement shall extend to the end of the Affordability Period.

6. **NM Tort Claims Act.** The City and its public employees, as defined in the New Mexico Tort Claims Act, do not waive any sovereign immunity, defense, or limitation of liability pursuant to law. No provision of this Agreement modified and/or waives any provision of the New Mexico Tort Claims Act.

7. **Indemnification.** NMIFCHDC shall indemnify, save and hold harmless the City, its officers, agents, and employees against all liabilities, damages, losses, expenses, and claims of every kind, including reasonable attorney's fees together with costs and expenses of litigation, arising out of, from,

or associated in any manner with this Agreement.

8. **Insurance.** During the term of this Agreement and during any extension of this Agreement, if any, NMIFCHDC shall obtain and continuously maintain at its expense the following kinds and amounts of insurance covering all operations under this Agreement, whether performed by NMIFCHDC, its officers, employees, invitees, or agents:

A. **Commercial General Liability Insurance.** Commercial general liability insurance which names the City as an additional insured which provides coverage against property damage, bodily injury, and wrongful death and with combined limits of liability as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 policy aggregate;
- iii. \$1,000,000 products liability / completed operations;
- iv. \$1,000,000 personal and advertising injury;
- v. \$50,000 fire, legal; and
- vi. \$5,000 medical expenses.

Prior to the execution of this Agreement, NMIFCHDC shall provide the City with a Certificate of Insurance reflecting the coverages specified herein and naming the City as an additional insured. NMIFCHDC shall also provide the City with a Certificate of Insurance upon each renewal of such insurance. Should such insurance terminate or be cancelled, NMIFCHDC shall immediately inform the City and all activities at the Lot shall cease.

B. **Automobile.** An automobile liability policy with liability limits in amounts of not less than one million dollars (\$1,000,000) combined single limit of liability for bodily injury, including death, and property damage in any one occurrence. The policy shall include coverage for the use of all owned, non-owned, and hired automobiles, vehicles and other equipment both on and off work.

C. **Workers' Compensation.** Workers' Compensation Insurance in accordance with the provisions of the Workers' Compensation Act of New Mexico.

D. **Certificate of Insurance.** All insurance shall be with a company or companies licensed and authorized to do business in the State of New Mexico. No later than the date of execution of this Agreement, NMIFCHDC shall provide the City Administrator with Certificate(s) of Insurance reflecting the coverages specified herein and naming the City as an additional insured. No less than annually, NMIFCHDC shall furnish to the City Administrator Certificate of Insurance(s) for the above-required insurances. NMIFCHDC shall provide the City Administrator with notice of any change thereof, and furnish to the City Administrator evidence of acquirement of a substitute thereof, and payment of the premium thereof.

9. **Records.** NMIFCHDC will maintain and require each agent providing services on the Project to maintain adequate financial accounting and Project records, including all records as may be required

by MFA, to permit the City and MFA to fulfill their obligations under the Act, the Rules, the Ordinance and this Agreement. Such records shall be maintained for the Affordability Period and for no less than five (5) years after the termination of the Affordability Period. The City and MFA shall have the right to inspect and copy such records upon reasonable notice to NMIFCHDC.

10. **Assignment.** Neither NMIFCHDC nor its successors or assigns, if any, shall assign or encumber this Agreement in whole or in part, nor shall this Agreement be assigned or transferred by operation of law without the prior written consent of the City and MFA in each instance. If there is an approved assignment or encumbrance, NMIFCHDC shall continue to be liable hereunder in accordance with the terms and conditions of this Agreement and shall not be released from the performance of the terms and conditions hereof. The consent by the City and/or MFA to an assignment, encumbrance, or transfer shall not be construed to relieve NMIFCHDC from obtaining the express written consent of the City and MFA to any future transfer of interest.

11. **Default or Breach.** Each of the following events shall constitute a default or breach of this Agreement:

A. **Loss of Non-Profit Status.** If NMIFCHDC, during the term of this Agreement, ceases to be a New Mexico nonprofit corporation in good standing with the New Mexico Public Regulation Commission or the Commission's successor agency, or if it ceases to be a 501(c)(3) entity as defined by the United States Internal Revenue Code.

B. **Failure to Comply.** If NMIFCHDC fails to perform or comply with any of the conditions of this Agreement, and if the nonperformance shall continue for a period of thirty (30) days after notice thereof by the City to NMIFCHDC, or if the performance cannot be reasonably had within the thirty (30) day period, and NMIFCHDC shall not have in good faith commenced performance within the thirty (30) day period and then diligently proceeded to completion of performance.

C. **Transfer of Agreement.** If this Agreement shall be transferred to or shall pass to or devolve to any other person or party, except in the manner specified herein.

12. **Effect of Default.** In the event of default hereunder as set forth in this Agreement, the rights of the City are as follows:

A. **Correction by City.** The City may elect, but shall not be obligated, to make any payment required of NMIFCHDC herein or comply with any agreement, term, or condition required hereby to be performed by NMIFCHDC; but any expenditure for correction by the City shall not be deemed to waive or release the default of NMIFCHDC or the right of the City to take any action as may be otherwise permissible or to seek other remedy under the law. If the City does so, it may recover the cost of such payment, compliance, or correction from NMIFCHDC and charge interest thereon as is permitted by law.

B. **Termination of Agreement.** The City shall have the right to cancel and terminate this

Agreement. In such an event, then NMIFCHDC shall pay to the City a pro rated amount of the total amount of reimbursement. Such payment shall be made within sixty (60) days after written demand from the City. The pro rated amount to be paid shall be determined by multiplying the total amount of reimbursement by the percent of the Affordability Period remaining. The parties agree the total amount of reimbursement is not more than One Hundred Fifty Five Thousand dollars (\$155,000.00). NMIFCHDC shall also pay, as may be permitted by law, any attorneys' fees and costs which the City and/or the MFA may incur in enforcing the provisions of the Ordinance, the Rules, the Act and/or this Agreement.

13. **Waiver.** Failure of the City to insist upon strict performance of any of the terms and conditions hereof shall be deemed a waiver of the rights or remedies that the City may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any term or condition.

14. **Notices.** All notices permitted or required by the terms of this Agreement shall be in writing and be deemed to have been duly given and delivered, if mailed, certified postage prepaid:

If to the City:

City of Carlsbad
c/o City Administrator

P.O. Box 1569
Carlsbad, NM 88221-1569

If to NMIFCHDC:

New Mexico Inter-Faith Community Housing
Development Corporation
c/o Executive Director

125 E. Palace Ave. Ste. 43
Santa Fe, NM 87501

The parties shall notify each other in writing of any change in the above names or addresses.

15. **Officials Not to Benefit.** NMIFCHDC represents and warrants that no Program funds have been paid or will be paid, by or on behalf of NMIFCHDC or by any agent of NMIFCHDC to any person for influencing or attempting to influence an officer or employee of any federal, state, or local government or agency, in connection with the awarding of any federal, state or local loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal, state, or local contract, grant, loan, or cooperative agreement.

No local, state, or federal employee or official shall be permitted to obtain any benefit that may arise from this agreement. Pursuant to NMSA 1978, Sections 13-1-191, 30-24-1, et seq., and 30-41-1 through 30-41-3, the receipt or solicitation of bribes, gratuities and kickbacks is strictly prohibited. Should the City and/or MFA determine that NMIFCHDC has violated any of these provisions, the City and/or MFA may terminate this Agreement, in addition to pursuing any other applicable penalties.

16. **Interest of Members of the Local Governing Body.** No member, officer, or employee of NMIFCHDC, no member of the governing bodies in the jurisdiction in which NMIFCHDC operates,

and no other public official of such locality or localities who exercises any function or responsibilities with respect to any Project under this Agreement, during their tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any proceeds or benefits arising from such Project.

17. **Entirety 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. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement. The parties expressly waive any other or further representations, warranties, or agreements not set forth in this document. This Agreement cannot be changed except by a written instrument duly executed by the parties.

18. **Workers' Compensation.** NMIFCHDC agrees to comply with any and all applicable state laws, rules, and regulations regarding workers' compensation benefits for its employees. Should NMIFCHDC fail to comply with the New Mexico Workers' Compensation Act and applicable rules when required to do so, NMIFCHDC shall be in default.

19. **Successors and Assigns.** All of the terms, covenants, conditions, and agreements contained herein shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.

20. **Waiver of Jury Trial.** The parties hereby waive the right to a jury trial on any issue arising out of or relating, directly or indirectly, to this agreement or the transactions contemplated hereby.

21. **Arbitration.** Should any dispute arise between the parties in connection with this agreement and if such dispute cannot be resolved by discussion between the parties, the parties agree to submit the unresolved dispute to binding arbitration in lieu of litigation.

22. **New Mexico Law and Venue.** The parties agree this Agreement shall be construed and controlled by the laws of the state of New Mexico. The parties further agree that, should there be any litigation arising out of this agreement, such legal action shall be brought in the District Court of Eddy County, New Mexico for the Fifth Judicial District. The parties expressly consent to both in personam and subject matter jurisdiction of the Eddy County District Court and agree that venue shall properly lie in the Eddy County, New Mexico District Court.

23. **Captions.** The captions of any articles, paragraphs or sections hereof are made for convenience only and shall not control or affect the meaning or construction of any of the provisions thereof.

24. **Exhibits.** Any instrument or document attached to or referred to by this Agreement shall constitute a part hereof as though set forth in full in the body of this Agreement, whether made a part

RESOLUTION No. 2016 - _____

City of Carlsbad

A RESOLUTION IN SUPPORT IN THE SUBMITTAL OF AN APPLICATION FOR TRANSPORTATION ROADWAY IMPROVEMENT FUNDING ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE RECONSTRUCTION OF SAN JOSE BOULEVARD.

WHEREAS, the New Mexico Department of Transportation (NMDOT) is accepting grant applications for Transportation Roadway Improvements funding:

WHEREAS, the Governing Body at its meeting of November 15, 2016, approved the submittal of a grant application reconstruction of San Jose Boulevard; and

WHEREAS, the project engineer for the City of Carlsbad has determined that the cost of the project to be approximately \$2,500,000.00 exclusive of engineering, gross receipts tax, and testing and recommends a submittal to NMDOT in the amount of \$1,500,000.00 with the city participation at \$364,000.00; and

WHEREAS, NMDOT requires the Governing Body to authorize by Resolution the submittal of an application and commit to participation in the cost of the project; and

WHEREAS, the City of Carlsbad feels the project is necessary and is in the best interest of the public and is committed to serve as the lead agency.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY, which The City of Carlsbad supports and approves the submittal of the aforementioned application to NMDOT for the Roadway Improvement Funding Program, and the Governing Body further certifies its commitment to the undertaking and has the local matching funding required to complete the proposed project.

INTRODUCED, APPROVED, PASSED, ADOPTED _____ DAY OF _____, OF 2016.

Dale Janway, Mayor

DATE

ATTEST:

Annette Barrick, City Clerk

DATE



SERTPO PROJECT FEASIBILITY FORM (PFF)

For assistance, contact Mary Ann Burr, SERTPO Manager, at (575) 624-6131 or mbsnmedd@plateautel.net

GENERAL INFORMATION

Preparation Date: November 17, 2016

Project Title: San Jose Boulevard Reconstruction - Phase V

Requesting Entity: City of Carlsbad

Governing Body Approval: YES ___ NO ___ PENDING_X_

Contact Person: Jason Burns, Projects Administrator

Phone: 575-885-1185

PROJECT DESCRIPTION

Project Type (Circle/boldface/underline all that apply):

ROADWAY TRANSPORTATION ALTERNATIVE BRIDGE SAFETY OTHER

Route Number and/or Street Name: San Jose Boulevard

Project Termini: The BOP is from 300' south of the intersection of West Pecan Street to the intersection of Peach Tree Street (Phase III-A).

Beginning Mile point: 27+50.0 Ending Mile point: 58+95.0 (San Jose stationing, there are no mile posts on San Jose Blvd.)

Total length of proposed project: 3,145.00 Linear Feet, 0.596 miles

Project Phases to be included in request (Circle/boldface/underline all that apply):

PRELIMINARY ENGINEERING CONSTRUCTION CONSTRUCTION MANAGEMENT

NATIONAL PERFORMANCE GOALS

Goals to be addressed (circle/boldface/underline all that apply):

System Reliability | Freight Movement & Economic Vitality | System Connectivity | Infrastructure Condition Safety | Congestion Reduction | Environmental Sustainability | Reduced Project Delivery Delays. All of these factors apply to this project.

Justification of how this project meets or addresses the goals circled above (use additional pages if necessary):

Phase V will begin approximately 300' south of the intersection of West Pecan Street (EOP of Phase IV) and continue north to the approximately 200' south of Del Rio Street (BOP of Phase III-B). The Typical Section will include a 3-lane roadway with 2 travel lanes, bicycle lanes, and a center left turn lane, sidewalk, curb and gutter and lighting. The new sidewalks will be constructed to comply with the Americans with Disabilities Act. The new roadway will include an underground storm drain system, replacement of a 12" A/C water line and associated construction. Phase V is the sixth and final phase of the reconstruction of San Jose Blvd. from the National Parks Highway (US 62-180) to the intersection of North Canyon Street.

The existing pavement is 30 feet in width. There are no shoulders, curb & gutter, sidewalks, drivepads, or storm drain inlets in this section of San Jose Blvd. The existing pavement is showing signs of age and exhibiting moderate to severe distress including transverse cracking and block cracking. There is no evidence of significant subgrade problems.

The low water crossing over Dark Canyon was reconstructed with Phase III, allowing vehicular traffic to cross Dark Canyon during heavy storm events. Bridge No. 9672, over the CID Canal, was reconstructed with Phase III-A.

As mentioned above, this is the Final Phase in the reconstruction of San Jose Blvd. which will allow for all the National Performance goals to be achieved with this project. San Jose Blvd. will provide a viable access and alternative to the congestion currently being seen on Canal Street (US 62/285). This will provide for System Reliability, Freight Movement & Economic Vitality, System Connectivity, Infrastructure Condition Safety, Congestion Reduction and Environmental Sustainability.

The following items have been completed:

Drainage Report, Geo-technical Report and pavement design, utility company notification, and Final Design to a 90% completion.

PROJECT COSTS:

Column A			Column B		
If project is <u>not</u> phased, complete column A only.			Total Phases No. (1, 2, 3, I, II, III, etc.):		
If project is phased, list the amount of funding being currently requested in Column A and complete Column B.			The amount below represents the cost of the entire project and will be greater than Column A.		
Project Cost:	\$ 2,500,000. Asking for \$1,500,000 in funding.		Total Project Cost:	\$	
Percentage Estimates:			Phased projects are usually large and divided into parts or phases. If you wish to supply any additional information, list comments here:		
Total Local Match	%14.56	\$364,000.00			
Total Federal Share	%85.44	\$1,136,000.00			
	100%				

DISTRICT REVIEW:

By:	Date:	Recommended:	Yes	No
-----	-------	--------------	-----	----

CITY OF CARLSBAD

**AGENDA BRIEFING MEMORANDUM
PURCHASING RECOMMENDATION**

Council Meeting Date: **11/15/16**

Department: Collections	BY: Luis Camero, Director of Engineering Services	Date: 11/09/16
--	---	---------------------------------

SUBJECT: Infrastructure
Description:
Sanitary Sewer Interceptor 118 Upgrade-Phase 1

SYNOPSIS:	Qty <u>1</u>	Total Est. Cost	<u>\$ 518,401.77</u>	Total Actual Cost	_____
	Budgeted Yes	Est. City Share	<u>\$ 518,401.77</u>	Actual City Share	_____
	Account # <u>36-0364-84016</u>		<u>\$ 661,008.00</u>		
	Account # _____		_____		
	Account # _____		_____		
	Account # _____		_____		
	TOTAL		<u>\$ 661,008.00</u>		

BACKGROUND, JUSTIFICATION AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)
Sanitary Sewer Interceptor 118 extends from National Parks Highway, north along San Jose Blvd. to Pecan St., east along Pecan St. to an easement west of 110 Pecan St., and north along this easement to Kircher St. where it connects to Interceptor 119. Current and future development along National Parks Highway will place Interceptor 118 at capacity, so it has become necessary to upgrade to a minimum size of 12 inches in diameter.

Because of limited funding and the need to lower a portion of the interceptor north of Pecan St., the project has been divided into 2 phases. Phase 1 which will replace the sewer line laying north of Pecan St. by open cut construction, and Phase 2 which will upsize the existing 8 inch and 10 inch line to 12 inches by pipe bursting. Plans and specifications have been completed for both phases of the project, the estimated cost for Phase 1 is \$518,401.77 including NMGRT @ 7.5625%. The sewerline along Pecan St. will be added to the bid as a deductive alternative.

Requested action to be taken by Council: Advertise Invitation for Bid	Council Action Taken: Select one	Date: 11-15-2016
---	--	-------------------------

Reviewed by City Administrator: /s/ Steve McCutcheon 11-10-2016

POST BID/RFP RECOMMENDATION	Council Meeting Date:
Requested action to be taken by Council: Select one	Council Action Taken: Select one Date:
ADDITIONAL INFORMATION:	
Reviewed by City Administrator:	

ATTACHMENT(S): Specifications Bid/RFP Summary Other: _____

Council Committee Reports

Adjourn