

## A G E N D A

Carlsbad City Council Regular Meeting  
Janell Whitlock Municipal Complex  
114 S. Halagueno Street  
Carlsbad, New Mexico

July 11, 2023 at 6:00 p.m.

Invocation – Pledge of Allegiance

1. Approval of Agenda
2. Routine and Regular Business

**All matters under this heading are considered routine by the City Council and will be acted upon in one motion. There will be no separate discussion of these items. If discussion is desired on a particular item, upon request, that item may be removed from the Routine and Regular Business and be considered separately.**

- A. **Minutes of the Regular City Council Meeting held on June 27, 2023**
  - B. **City Personnel Report**
  - C. **Contracts and Agreements**
    - 1) Consider Approval of Memorandum of Understanding between the City of Carlsbad, Eddy County and the City of Artesia for the Use of Opioid Settlement Funds
    - 2) Consider Approval of Memorandum of Agreement for the City of Carlsbad to enter into a Combined Application in order to relinquish Community DWI Enforcement Funds to the New Mexico State Police
    - 3) Consider Approval of Agreement between the City of Carlsbad and NM Department of Finance for an E911 Grant Agreement for the 911 Telephone Emergency System at the Carlsbad Police Department
    - 4) Consider Approval of Renewal Agreement between the City of Carlsbad and Garden Mart Inc. for Grounds Keeping and Maintenance Services of City Wide Landscapes, Medians, Gateways and Properties
  - D. **Monthly Reports**
    - 1) Human Resources Department June 2023
3. Consider Approval of submission of a Grant Application to the American Library Association for an Americans and the Holocaust Traveling Exhibition
  4. Consider Approval of acceptance of T-Mobile Hometown Grant for the Carlsbad Public Library's Digital Archive and Meeting Space
  5. Consider Approval of acceptance of Grant Agreement from the New Mexico Department of Finance and Administration for the Carlsbad Police Department to Purchase and Equip Police Vehicles

6. Consider Approval of Temporary Business License to conduct door to door sales of educational books by Southwestern Advantage dba Rene's Books
7. Consider Approval of an Appeal of the decision by the Planning and Zoning Commission to deny a Variance request to reduce the required side property setback at 1209 W Thomas Appellant: Lucas McDonald
8. Consider Approval of Resolution 2023-32, a Resolution increasing the contribution from the City of Carlsbad (City), to the New Mexico Public Employees Retirement Association (PERA) for Carlsbad Police Officers Association (CPOA) union members participating in Municipal General Plan 3
9. Consider Approval of Resolution 2023-33, a Resolution increasing the contribution from the City of Carlsbad (City), to the New Mexico Public Employees Retirement Association (PERA) for Municipal Police Plan 5
10. Consider Approval of Resolution 2023-34, a Resolution requiring the removal of the ruins, rubbish, wreckage, debris or weeds at 2506 Primrose Owner: Norwest Bank NM, Albert Lopez K of S
11. Council Committee Reports
12. Adjourn



#### FOR INFORMATION ONLY

Agendas and City Council minutes are available on the City web site: [cityofcarlsbadnm.com](http://cityofcarlsbadnm.com) or may be viewed in the Office of the City Clerk during normal and regular business hours.

#### **CARLSBAD CITY COUNCIL MEETING SCHEDULE**

- Regular Meeting - Tuesday, July 25, 2023 at 6:00 p.m.
- Regular Meeting – Tuesday, August 8, 2023 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.

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE JANELL WHITLOCK  
MUNICIPAL COMPLEX BUILDING ON JUNE 27, 2023 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Edward T. Rodriguez	Councilor
	Jason O. Chavez	Councilor
	Mark C. Walterscheid	Councilor
	Jeff Forrest	Councilor
	Karla Niemeier	Councilor
	Judith E. Waters	Councilor
Absent:	Lisa A. Anaya-Flores	Councilor
	Wesley A. Carter	Councilor
Also Present:	John Lowe	City Administrator
	K.C. Cass	Deputy City Administrator
	Ted Cordova	Deputy City Administrator
	Wendy Austin	Deputy City Administrator
	Denise Madrid-Boyea	City Attorney
	Nadine Mireles	City Clerk
	Angie Barrios-Testa	Director of Municipal Services
	Mike Abell	Director of Utilities
	Wayne Hatfield	IT Director
	Brent Griffith	IT Technician
	Melissa Salcido	Finance Director
	Ken Ahrens	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Charlie Garcia	Police Officer
	Missi Currier	Cambiar Consulting
	Jim Waters	Citizen

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**

0:00:20      Invocation - Pledge of Allegiance

0:00:48      **1. APPROVAL OF AGENDA**

0:00:49        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Chavez to approve the Agenda.

0:00:53        **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:01:09        **2. CITY OF CARLSBAD FINANCIALS - MAY 2023**

**Mrs. Salcido** reviewed the revenues and expenditures as of May 2023 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:02:39        **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on June 13, 2023
- B. City Personnel Report
- C. Purchasing
  - 1) Consider Approval to Advertise Invitation to Bid for Double Eagle Waterline Replacement Project
  - 2) Consider Approval to Award RFP 2023-06 to Aquatic Consultants for Professional Aquatic Management Services
- D. Contracts and Agreements
  - 1) Consider Approval of Agreement between the City of Carlsbad and Eddy County for the Provision of General Services for Eddy County Residents for Fiscal Year 2023-2024
  - 2) Consider Approval of Agreement between the City of Carlsbad and Carlsbad Municipal Schools for General Services for Fiscal Year 2023-24
- E. Monthly Reports
  - 1) Community Development Department May 2023
  - 2) Municipal Court Department May 2023
  - 3) Municipal Services Department May 2023
  - 4) Utilities Department May 2023

0:02:58        **Mayor Janway asked Mr. Cass to briefly explain Agenda item C1, Consider Approval to Advertise Invitation to Bid for Double Eagle Waterline Replacement Project.**

**Mr. Cass** said this project is a portion of the north well collector line, that includes all the wells on the Caprock. He said this will encompass the \$2 million of Economic Development Administration funds that the City received and has now been given the opportunity to use. **Mr. Cass** said there is an old 22-inch steel line that exists there now that was constructed in the mid-1940s. He said this will be replaced with a 24-inch C900 PVC line.

**Councilor Walterscheid** asked if this area is rocky. **Mr. Cass** said it is rocky and it is on the Caprock. He said it is the north well of the Double Eagle Water System.

0:04:44        **MOTION**

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

0:04:51        **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:05:07        **4. CONSIDER APPROVAL OF PROPOSAL FROM CAMBIAR CONSULTING, LLC (MISSI CURRIER) TO PROVIDE PROFESSIONAL LOBBYING SERVICES TO SUPPORT THE CITY'S AGENDA WITH A FOCUS ON THE NEW MEXICO LEGISLATURE**

**Mr. Lowe** said this is an agreement with Cambiar Consulting, LLC, to provide lobbying services on behalf of the City of Carlsbad. He said Missi Currier is the cofounder of Cambiar Consulting and has been a registered lobbyist for the City of Carlsbad for the last several years.

**Missi Currier** said as of right now, the interim committees are starting to meet again throughout the state; including Tax and Rev, Legislative Finance Committee, Transportation and many others. She said it would be an honor to represent the City of Carlsbad throughout the interim, as well as going into the legislative session, which will start in January 2024. **Ms. Currier** said she knows there is a lot of work to consider between destination sourcing and road funding. She said she looks forward to continuing conversations to support the City of Carlsbad.

**Councilor Rodriguez** said Ms. Currier is very knowledgeable and working with her has been beneficial. He said she is good at getting doors open and getting an audience. He said he would like to work with her in the future.

0:07:29        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of proposal from Cambiar Consulting, LLC (Missi Currier) to provide Professional Lobbying Services to support the City's agenda with a focus on the New Mexico Legislature.

0:07:36        **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:07:53      **5. CONSIDER APPROVAL OF REQUEST FROM DONNA DAVIS FOR OUTSIDE CITY LIMITS WATER SERVICE FOR PROPERTY LOCATED AT 217-2 GRASSBURR LANE**

**Mr. Abell** said at the regular scheduled meeting of the Board of Water and Sewer Commissioners on May 18, 2023, a request for water service outside of the serving district was presented and recommended for approval.

**Councilor Walterscheid** asked if it will cost the City to grant this service and if we have the amount of water necessary to provide service. **Mr. Abell** said the City of Carlsbad has a mechanism in place for residents that live outside of the serving district. He said this consists of them applying to the City of Carlsbad for water. **Mr. Abell** said the service itself will be set on Grassburr Lane, and the property is off of Mission Ave.

**Mr. Walterscheid** asked if the lines are of appropriate size to give them water without affecting everyone else in the area. **Mr. Abell** answered yes.

**Councilor Chavez** asked if this is two times the rate. **Mr. Abell** said yes, he believes that it is part of the contract.

**Councilor Walterscheid** asked if it will stay that way until the City of Carlsbad annexes that portion. **Mr. Abell** answered yes, normally in that situation, the property would have to be annexed into the City at their request, and then it would be determined at that point.

**Councilor Rodriguez** asked what would happen if the property sells. **Mr. Abell** said if the property sells, the new property owner would have to come before the Board of Water and Sewer Commissioners once again, and ask for water service to be continued or granted to them at that time.

0:10:56      **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve request from Donna Davis for Outside City Limits Water Service for property located at 217-2 Grassburr Lane.

0:11:01      **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:11:19      **6. CONSIDER APPROVAL OF REQUEST FROM DONNA DAVIS FOR OUTSIDE CITY LIMITS WATER SERVICE FOR PROPERTY LOCATED AT 217-3 GRASSBURR LANE**

**Mr. Abell** said this is the second service that Ms. Davis requested at the May 18, 2023 Water and Sewer board meeting. He said it was presented and recommended for approval.

**Councilor Walterscheid** asked if Ms. Davis is looking forward to developing more lots. **Mr. Abell** said she went before the County and subdivided the lots and then came to the City, wanting water service for those lots, for construction for her new homes.

0:12:23      **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve request from Donna Davis for Outside City Limits Water Service for property located at 217-3 Grassburr Lane.

0:12:28      **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:12:42      **7. CONSIDER APPROVAL OF ACCEPTANCE OF FEDERAL AVIATION ADMINISTRATION (FAA) GRANT FOR THE PRELIMINARY ENGINEERING REPORT FOR THE RESURFACING AND RENUMBERING OF RUNWAY 3-21 AT THE CAVERN CITY AIR TERMINAL**

**Mr. Lowe** said this is a request to accept a FAA grant for the Cavern City Air Terminal for the Preliminary Engineering Report on Runway 3-21. He said grant is in the amount of \$124,000, with a state match of \$7,491 and a city match of \$832. **Mr. Lowe** said this project has been budgeted in the Fiscal Year 2024 budget.

0:13:24      **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Rodriguez to approve acceptance of Federal Aviation Administration (FAA) grant for the Preliminary Engineering Report for the resurfacing and renumbering of Runway 3-21 at the Cavern City Air Terminal.

0:13:30      **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:13:44      **8. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW MOBILE SALES (VENDING) OF SNOW CONES ON CITY PROPERTY AT THE CARLSBAD BEACH PARK, BY THE SPOT OWNER: SHANE RODRIGUEZ**

**Mr. Patterson** said this is a request for permission to vend on City owned property at the Carlsbad Beach Park by the Spot, owner Shane Rodriguez. He said the applicant's material indicated snow cones, and he was informed by the applicant that they will sell more than just snow cones, but no alcohol. **Mr. Patterson** said they asked to vend from 11:00 am to 8:00 pm, Monday through Sunday. He said the approval of this request with the following conditions is recommended, the applicant shall not disturb the peace with a loud speaker, megaphone, bell, music, or other disruptive noise; the applicant shall vend toward the sidewalk side of the beach parking lot and shall appropriately

handle all waste associated with the business. He said the approval of this request grants permission to the applicant to vend snow cones and other related food and drinks (non-alcoholic) on City owned property at the Carlsbad Beach Park from Wednesday, June 28, 2023 until Sunday, December 31, 2023. He said they would have to provide a surety bond to the City.

**Councilor Walterscheid** asked how many snow cone trucks do we have. **Mr. Patterson** said he believes we have approved three snow cone trucks.

**Councilor Chavez** asked how many vendors do we have at the Carlsbad Beach Park. **Mr. Patterson** said if this gets approval, there would be five.

**Councilor Chavez** asked if there are enough trash cans. **Mr. Patterson** said he has not received any complaints that there is an accumulation of trash or not enough receptacles. He said it is something he can look into and make sure of. **Councilor Chavez** said we should consider charging them for trash, since we charge all of other businesses for trash.

0:16:34      **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Rodriguez to approve of Temporary Use Application to allow mobile sales (vending) of snow cones on City property at the Carlsbad Beach Park, by The Spot Owner: Shane Rodriguez.

0:16:45      **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:16:57      **9. CONSIDER APPROVAL OF ANNUAL CITY LIQUOR LICENSE RENEWALS**

**Mrs. Mireles** said the City Clerk's office annually requests the City Council's approval of all City Liquor License renewals. She said the renewals are being renewed yearly upon the payment of a \$250 fee and proof of a valid state issued Liquor License. She said the City currently has 49 Liquor Licenses.

**Councilor Walterscheid** said \$250 is a small fee.

**Councilor Forrest** said it used to be a lot more. **Mrs. Mireles** said \$250 is the fee only for the City License. She said they have to have a valid State Liquor License in order to receive a City Liquor License.

**Councilor Walterscheid** asked if one has ever been taken away. **Mrs. Mireles** said no, the New Mexico Regulation and Licensing Department has jurisdiction over that.



0:18:21        **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Forrest to approve of Annual City Liquor License Renewals.

0:18:30        **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:18:44        **10. CONSIDER APPROVAL OF ANNUAL CITY CANNABIS LICENSE NEW AND RENEWALS**

**Mrs. Mireles** said in 2021, the City of Carlsbad adopted Ordinance 2021-20, which requires any applicant for a recreational cannabis establishment to secure a City Cannabis License. She said each City Cannabis License carries a fee of \$250 annually and should be renewed by July 1 of each year. She said the City of Carlsbad currently has 25 Cannabis Licenses.

**Councilor Forrest** asked if there is anything we can do to limit the number of licenses we have. **Mrs. Mireles** said no, it is regulated by the state.

**Mayor Janway** asked **Mrs. Boyea-Madrid** if it is in the regulations that we cannot tamper a license being issued. **Ms. Madrid-Boyea** said yes that is correct, it is all regulated by state statute and our role as a municipality is to monitor time, place, and manner. She said if there is an infraction or violation of the state statute, that would need to be referred to the state for their enforcement. She said there is no limit on the number of cannabis businesses we have, as long as they comply with the state's requirements.

**Councilor Forrest** asked if the City of Artesia tried to block cannabis licenses. **Mrs. Madrid-Boyea** said she does not know what Artesia has done, but she understands the County may have taken some measures to try to impose their own ordinances.

0:21:06        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve of Annual City Cannabis License New and Renewals.

0:21:12        **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:21:25        **11. CONSIDER APPROVAL OF RESOLUTION 2023-30, A RESOLUTION TO DEEM CERTAIN UTILITY ACCOUNTS UNCOLLECTABLE**

**Mrs. Austin** said this proposed Resolution is to write off uncollectible utility accounts. She said state statute 3-37-7 states that uncollectable accounts which have not been collected for a period of more than four years, should be written off the balance sheet.

**Mrs. Austin** said in addition, the City's auditors require that uncollectible accounts be written off, so that the City's balance sheet fairly represents the amounts that can be reasonably collected. **Mrs. Austin** said Resolution 2023-30 proposes a write off of 312 accounts for service years 2017 through 2018. She said the amount of the write off is approximately \$56,000 with an average account balance of \$156. She said the amount of the write off is less than 1% of the utility revenue collected during this time frame, and this represents less than 15% which is within our limits acceptable on an audit finding. **Mrs. Austin** said the City does not waive its right to collect these amounts in the future.

**Councilor Rodriguez** asked if there is a lien placed on these when we say we reserve the right. **Mrs. Austin** answered yes. She said even though we write off the account from the balance sheet, we do keep a record of the utility owner, and if they do come forward in the future to open an account, we look at our records and let them know they have an unpaid balance.

**Councilor Walterscheid** asked if the amount ever goes away. **Mrs. Austin** said no it does not go away, it is just written off the balance sheet.

**Councilor Chavez** asked if we were to put a lien on somebody, can they sue us for that. **Mrs. Austin** said no, there is state statute that covers the lien process.

0:24:51      **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Rodriguez to approve of Resolution 2023-30, a Resolution to deem certain Utility Accounts Uncollectable.

0:24:58      **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:25:10      **12. CONSIDER APPROVAL OF RESOLUTION 2023-31, A RESOLUTION REQUIRING THE REMOVAL OF THE WEEDS, DEBRIS AND SECURING THE ABANDONED STRUCTURE AT 112 S ASH/112-B S ASH OWNER: JAMES AND LETHA FUDGE C/O JEREMY AND TRACY BOLDOC**

**Mrs. Madrid-Boyea** said the property is located in a residential neighborhood. She said there appears to be a residential structure and a garage on the property. She said there are weeds on the property and in the alley. **Mrs. Madrid-Boyea** said the Eddy County Assessor's office names James R. and Letha G. Fudge c/o Jeremy and Tracy Bolduc as owning or having an interest in the property. She said the property has a structure at 112 S. Ash that appears to be occupied, and the other structures, and garage, need to be secured. **Mrs. Madrid-Boyea** said Code Enforcement has been to the property, a Notice of Violation was sent on October 15, 2020, March 31, 2021, and April 13, 2021. She said a complaint was received on October 26, 2022. She said the property has been inspected by City Code Enforcement and the Fire Chief, and they found that the property remains

out of compliance with applicable codes. She said the damaged and unsecured structure, weeds, and debris remain on the property. **Mrs. Madrid-Boyea** said the Fire Chief found that the property presents an extreme fire hazard for responding fire fighters and emergency personnel. She said she has prepared a Resolution for review, which if adopted, would require the owner to secure the ruined structure, and remove the debris and weeds from the property within 30 days of service of the Resolution. **Mrs. Madrid-Boyea** said she has spoken to Tracy Bolduc and she explained that her and her husband live out of town, and they have had some situations where they are unable to clean the property themselves, but they are going to pay someone to clean the property. **Mrs. Madrid-Boyea** said Mrs. Bolduc promised to get started on it immediately.

**Councilor Walterscheid** said it looks as if the owners are waiting for the City to come and pick up their trash. **Mrs. Madrid-Boyea** said it appears to her the same way, and the Planning Department has checked, but no request was put in for the grappler to pick it up. She said however, we went ahead and put in the request for them.

**Councilor Rodriguez** said he appreciates them trying to clean it up, but he would like for the Resolution to be adopted. He said if they have it cleaned by the end of the 30-day time period, then we can step away from it, but if not, we need to take the necessary action at the appropriate time.

0:30:45      **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of Resolution 2023-31, a Resolution requiring the removal of the weeds, debris and securing the abandoned structure at 112 S Ash/112-B S Ash Owner: James and Letha Fudge c/o Jeremy and Tracy Bolduc.

0:30:49      **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:31:04      **13. COUNCIL COMMITTEE REPORTS**

No reports.

0:31:09      **Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.**

0:31:14      **14. ADJOURN**

0:31:19      **MOTION**

The motion was made by Councilor Waters and seconded by Councilor Forrest to adjourn.

0:31:28        **VOTE**

The vote was as follows: Yes - Waters, Rodriguez, Forrest, Niemeier, Walterscheid, Chavez; No - None; Absent - Carter, Anaya-Flores; the motion carried.

0:31:30        **Adjourn**

There being no further business, the meeting was adjourned at 5:31 p.m.

\_\_\_\_\_  
Dale Janway, Mayor

ATTEST:

\_\_\_\_\_  
Nadine Mireles, City Clerk

DRAFT

CITY OF CARLSBAD  
**PERSONNEL REPORT**

July 11, 2023

**APPOINTMENTS:**

<u>NAME</u>	<u>DATE</u>	<u>DEPARTMENT</u>	<u>CLASSIFICATION</u>
Jacob Luebke	07/12/23	Golf	Pro Shop Attendant
Ashley Medina	07/12/23	Solid Waste	ARC Driver

**TERMINATIONS:**

<u>NAME</u>	<u>DATE</u>	<u>DEPARTMENT</u>	<u>CLASSIFICATION</u>	<u>REASON</u>
Garret Aldaz	06/28/23	Fire	Firefighter/EMT-I	Resigned
Roby Arnold	06/30/23	Projects	Electrical Inspector	Retired
Marisol Cordova	06/30/23	Transit	Transit Driver	Medical Termination
Keith Lujan	06/30/23	Garage	Shop Foreman	Resigned
Adriana Maturino	06/29/23	Solid Waste	ARC Driver	Discharged
Justin Porter	06/15/23	Golf	Pro Shop Attendant	Resigned
Steve Rodriguez	06/30/23	Garage	Maintenance Superintendent	Resigned
Alexia Torres	06/29/23	Municipal Court	BPA Intern	Job Ended

**INTERNAL TRANSFERS AND PROMOTIONS:**

<u>NAME</u>	<u>DATE</u>	<u>DEPARTMENT</u>	<u>CLASSIFICATION</u>
Joseph Florez	06/26/23	Construction	Construction Maintenance 2

CITY OF CARLSBAD

RECOMMENDATION FOR EMPLOYMENT

Dale Janway, Mayor

John Lowe, City Administrator

TO: The Honorable Mayor Dale Janway & Members of the City Council

FROM: Ted Cordova, Deputy City Administrator

Ted Cordova

Digitally signed by Ted Cordova
DN: cn=Ted Cordova, o=City of Carlsbad, ou=Community Development, email=tcordova@cityofcarlsbad.com, b=US
Date: 2023.06.23 12:41:33 -0800

SUBJECT: Recommendation for Employment

DATE: 6/23/2023

The following applicant has met all pre-employment requirements and is hereby recommended for employment with the City of Carlsbad subject to a pre-hire medical examination:

General Information:

Name: Jacob Luebke Classification/Position: Pro Shop Attendant

Department: Golf Pro Shop

- Regular Full-time Hourly \$19.70 per hour
Seasonal Part-time Salary \$ per annum
Temporary On call

Education Level:

- High School Diploma GED or equivalent
Associates Degree
Bachelors Degree
Masters Degree
Other Class A CDL

Employment:

Present or last Employer: Harbor Freight

From June 2023 to Current Classification: Manager

Duties: Direct customer service, and employee direction.

Related Experience: Face to face customer service, with the intent to help.

Comments: I feel having Jacob would help fulfill our team. He is now an avid golfer which I have seen turn from non-golfer to a golfer. With that drive I feel he will bring that ownership to his work ethic and be a dependable asset to the course.

# CITY OF CARLSBAD

## RECOMMENDATION FOR EMPLOYMENT

Dale Janway, Mayor

John Lowe, City Administrator

**TO:** The Honorable Mayor Dale Janway & Members of the City Council

**FROM:** Ivan M Abell, Director of Utilities  By: Ivan M. Abell, Director of Utilities  
Title: Director of Utilities  
Date: 06/28/2023

**SUBJECT:** Recommendation for Employment

**DATE:** June 28, 2023

The following applicant has met all pre-employment requirements and is hereby recommended for employment with the City of Carlsbad subject to a pre-hire medical examination:

### General Information:

Name: Ashley Medina Classification/Position: ARC Driver

Department: Solid Waste

- |   |   |   |
|---|---|---|
| <input checked="" type="checkbox"/> Regular | <input checked="" type="checkbox"/> Full-time | <input checked="" type="checkbox"/> Hourly \$ <u>24.08</u> per hour |
| <input type="checkbox"/> Seasonal           | <input type="checkbox"/> Part-time            | <input type="checkbox"/> Salary \$ _____ per annum                  |
| <input type="checkbox"/> Temporary          | <input type="checkbox"/> On call              |   |

### Education Level:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> High School Diploma | <input type="checkbox"/> GED or equivalent |
| <input type="checkbox"/> Associates Degree _____        |  |
| <input type="checkbox"/> Bachelors Degree _____         |  |
| <input type="checkbox"/> Masters Degree _____           |  |
| <input type="checkbox"/> Other _____                    |  |

### Employment:

Present or last Employer: Spark Delivery

From September 2022 to current Classification: Delivery Driver

Duties: Delivery of grocery orders from Walmart to the customer.

Related Experience: CDL Class A Driver's License with tanker and hazmat endorsements.

Comments: \_\_\_\_\_

**CITY OF CARLSBAD**

**AGENDA BRIEFING MEMORANDUM**

Council Meeting Date: July 11, 2023

<b>DEPARTMENT:</b> Legal	<b>BY:</b> Denise Madrid Boyea <i>DB</i>	<b>DATE:</b> June 30, 2023
<b>SUBJECT:</b> Consider approving a Memorandum of Understanding between Eddy County, The City of Carlsbad and the City of Artesia for the Use of Opioid Settlement Funds.		
<b>BACKGROUND, ANALYSIS AND IMPACT:</b> (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)		
<p>The New Mexico Attorney General’s Office entered into litigation against certain prescription drug manufacturers and distributors of opioids. As a result of the litigation, settlements were reached by the State of New Mexico with the various defendants and more settlements are expected to be reached. The State of New Mexico entered into an agreement with various local governments, including the City of Carlsbad, City of Artesia and Eddy County for how the settlement proceeds from the opioid manufacturers or distributors would be distributed. The City of Carlsbad agreed to coordinate with the City of Artesia and the County of Eddy to utilize the settlements funds to address persons affected by the opioid epidemic. Eddy County has agreed to be the fiscal agent for the opioid settlement funds. Some of the settlement funds have already been paid out. The City of Carlsbad, the City of Artesia and the County of Eddy have conducted informal meetings and agreed to work together pursuant to a Memorandum of Understanding regarding the use of the opioid settlement funds. A Memorandum of Understanding is attached for the review and possible approval of the Carlsbad City Council. Eddy County approved the attached Memorandum of Understanding on June 20, 2023.</p>		
<b>DEPARTMENT RECOMMENDATION:</b>		
Approve the Memorandum of Understanding.		
<b>BOARD/COMMISSION/COMMITTEE ACTION:</b> N/A		
<input type="checkbox"/> P & Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board
<input type="checkbox"/> Museum Board	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board
<input type="checkbox"/> Library Board	<input type="checkbox"/> North Mesa Board	<input type="checkbox"/> _____
Committee		
		} <input type="checkbox"/> <b>APPROVED</b>
		} <input type="checkbox"/> <b>DISAPPROVED</b>

**Reviewed by:**

**City Administrator** /s/John Lowe **Date:** 07/06/2023

**ATTACHMENT(S):**

Memorandum of Understanding.(approved by Eddy County Board of Commissioners on 6/20/23).



**MEMORANDUM OF UNDERSTANDING  
BETWEEN EDDY COUNTY, THE CITY OF CARLSBAD,  
AND THE CITY OF ARTESIA  
FOR THE USE OF THE OPIOID SETTLEMENT FUNDS**

THIS MEMORANDUM OF UNDERSTANDING, entered into this 20th day of June, 2023, by and between Eddy County (hereinafter call "County") and the Cities of Artesia and Carlsbad (hereinafter called "Cities") to provide for the cooperation and coordination between the County and Cities for proper allocation of Opioid settlement funds for services, education and prevention related to the opioid crisis.

**RECITALS:**

**WHEREAS**, the State of New Mexico commenced litigation in September 2017 against the opioid industry in state court to address the opioid crisis and recently entered into a settlement agreement with various entities engaged in either the manufacture or distribution of opioids; and

**WHEREAS**, the State of New Mexico has entered into the New Mexico Opioid Allocation Agreement that addresses the distribution of proceeds from the opioid settlement agreements for approximately \$100 million gross. The State has agreed to split the net proceeds 55%/45%; and

**WHEREAS**, local communities, including ours, have been profoundly affected by the opioid crisis across the County. The impact of the opioid crisis is straining the resources and capabilities of the County and Cities which strive to provide for needed services to combat the opioid crisis; and

**WHEREAS**, in an effort to address these impacts and provide needed services, funding is needed to support the programs that deal with the direct effects of the opioid crisis and to educate youth and the general public to the devastating effects of opioid addiction; and

**WHEREAS**, the County and the Cities have mutual interests for the purpose of providing the means and resources that will allow them to meet the service needs of these communities.

**NOW THEREFORE IN CONSIDERATION** of the mutual promises, covenants and conditions contained herein, the parties hereto agree as follows:

**SCOPE OF SERVICES INCLUDING BUT NOT LIMITED TO:**

- a. Engaging with the leadership of the County and Cities on a regular basis to ascertain the goals, objectives and services that are needed to address the opioid crisis in our area.
- b. Allocate, in coordination with input from the County and Cities, the funds from the opioid settlement to existing service providers, mental and physical health care facilities and education/prevention programs geared towards youth and the general public resulting from the opioid crisis.
- c. Prepare a monthly and an annual financial report as directed by the County and Cities.

**TERMS OF MEMORANDUM OF UNDERSTANDING.**

This Memorandum of Understanding, along with any approved amendments, shall be effective from the date of final party's signature in 2023, and shall remain in effect until terminated in writing by any of the participating parties, or until modification is needed, so long as the funds are available.

**FISCAL AGENT.**

The County agrees to be the fiscal agent for the funds received from the State of New Mexico from the opioid settlements with the various opioid manufacturers and distributors.

**HOLD HARMLESS.**

The Cities agree not to purport to bind the County and the County agrees not to bind Cities to any obligation not assumed herein by the County or Cities, unless each entity has express written authority to do so, and then only within the strict limits of the authority.

**EXTENT OF MEMORANDUM OF UNDERSTANDING.**

This Memorandum of Understanding represents the entire and integrated Memorandum of Understanding between the County and the Cities and supersedes all prior negotiations, representations or agreements either written or oral. This Memorandum of Understanding may be amended by written instrument signed by all parties.

**SEPARATE LIABILITY OF PARTIES.**

Each party shall be responsible for liability arising from personal injury or damage to persons and property occasioned by its own officers, employees or agents in the performance of this Agreement, subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act and any amendments thereto. The parties and their "public employees", as defined in the New Mexico Tort Claims Act, do not waive any sovereign immunity, do not waive any defense, and/or do not waive any limitation of liability pursuant to law. No provision of this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

**NON-WAIVER.**

Waiver by a party of any default in performance by the other party of any of the terms or conditions contained in this agreement shall not be deemed a continuing waiver of that default or any subsequent default.

**NO THIRD PARTY BENEFICIARIES.**

Nothing in this Agreement, express or implied, is intended to or shall confer upon anyone, other than the parties to this Agreement, any right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

**ENTIRETY OF AGREEMENT; MODIFICATIONS.**

This Agreement incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and contemporaneous 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. Neither this Agreement nor any provisions hereto may be waived, modified, amended, discharged or terminated except by an instrument in writing executed with the same formality as with this Agreement and then only to the extent set forth in such instrument.

**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 Eddy County:

Eddy County  
Roberta Gonzales, County Manager  
101 W. Greene St.  
Carlsbad, NM 88220

If to Carlsbad:

City of Carlsbad  
Dale Janway, Mayor  
101 N. Halagueno St.  
Carlsbad, NM 88220

If to Artesia:

City of Artesia  
Jon Henry, Mayor  
511 W. Texas Avenue  
Artesia, NM 88210

The parties shall notify each other in writing of any change in the above information.

**LIMITS OF AUTHORITY.**

Each party agrees not to purport to bind the other party, unless that party has express written authority to do so, and then only within the strict limits of that authority.

**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 agree that litigation, if any, arising out of this Agreement 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 Fifth Judicial District Court of Eddy County, New Mexico.

**SEVERABILITY.**

To the extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by, or held to be invalid under applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this Agreement.

**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.

This Memorandum of Understanding is approved effective this 20th day of June, 2023.

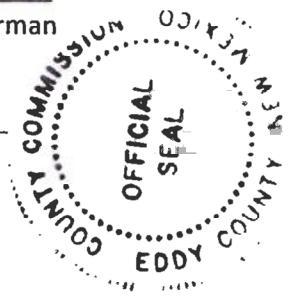
*Signature Page to Follow*

**EDDY COUNTY BOARD OF COMMISSIONERS**

By: *Ernie Carlson*  
ERNIE CARLSON, Commission Chairman

Date: June 20, 2023

ATTEST: *Cara Cooke*  
Cara Cooke, County Clerk



**City of Artesia**

\_\_\_\_\_  
Mayor Jon Henry

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

**City of Carlsbad**

\_\_\_\_\_  
Mayor Dale Janway


Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 07/11/2023

<b>DEPARTMENT:</b> Carlsbad Police Department	<b>By:</b>  *A137 Shane Skinner – Chief of Police	<b>DATE:</b> 07/05/2023
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**SUBJECT: Memorandum of Agreement for the City of Carlsbad to Enter a Combined Application in order to relinquish Community DWI Enforcement Funds to the New Mexico State Police**

**BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)**

The Eddy County DWI Program is requesting the Carlsbad City Council to consider the authorization of the Memorandum of Agreement regarding the FY2023 CDWI Funds. The Eddy County DWI Program is eligible to apply for \$8,057.00 in CDWI funding this year. The Carlsbad Police Department generated \$2,101.00 of this overall amount. The Eddy County DWI Program is requesting this Memorandum of Agreement be approved so that the City of Carlsbad can file a combined application for the aforementioned funds. This Memorandum of Agreement will stipulate that awarded funds will be distributed to the New Mexico State Police for DWI enforcement activities within Eddy County.

The City of Artesia, the Village of Hope and the Eddy County Commission has already approved this Memorandum of Agreement to participate in the combined application for CDWI Funds. The City of Carlsbad has participated in this combined application for at least the previous 25 years. The Eddy County DWI Program will fund DWI Enforcement activities for other agencies, to include the Carlsbad Police Department, out of the Distribution and Grant funds. The New Mexico State Police are not granted money for DWI Enforcement activities out of those particular funds.

As you can see, these CDWI Funds will still be used to support DWI Enforcement activities in our community and will continue to benefit the overall public safety in Carlsbad and Eddy County.

**DEPARTMENT RECOMMENDATION: I recommend the City of Carlsbad approve the Memorandum of Agreement with the Eddy County DWI Program in order to enter into a Combined Application with the City of Artesia, Village of Hope and Eddy County.**

**BOARD/COMMISSION/COMMITTEE ACTION:**

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

<b>Reviewed by:</b> <b>City Administrator:</b> /s/John Lowe	<b>Date:</b> 07/06/2023
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ATTACHMENT(S): Memorandum of Agreement (A-23-101)

## AGENDA REQUEST



**Department Submitting:** Eddy County DWI Program

**Contact Person:** Cynthia G. Sharif

**Phone:** 575-234-9963

**Agenda Date Of:** July 11, 2023

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**Agreement or Resolution #:** A-23-101

**Agenda Item Title:** Memorandum of Agreement for CDWI Funds

**Brief Description/Background:** CDWI funds are generated by a \$75.00 fee imposed on convicted DWI offenders. This fee is collected by the courts and reverted to communities through an application process. We are requesting that the City of Carlsbad agrees to file a joint application to the New Mexico Department of Transportation, Traffic Safety Division for the \$8,057 that is eligible to be applied for. The City of Carlsbad generated \$\$2,101 of the total amount collected. We propose to use this funding for DWI Enforcement activities by the New Mexico State Police throughout Eddy County. The Artesia, Carlsbad, Hope and Loving Police Departments and the Eddy County Sheriff's Office receive a portion of their DWI Enforcement funding from the Eddy County DWI Program Distribution Fund. These agencies have all stated that they have no objection to this funding going to the New Mexico State Police.

<b>Board Action Requested</b>			
No Action, FYI Only		Make/Pass Motion	
Approve Resolution		Adopt Ordinance	
Discussion / Direction		Approve and Sign Letter	
Other			
Approve and Sign Agreement	<input checked="" type="checkbox"/>	Reviewed By County Attorney	Yes <input checked="" type="checkbox"/> No
County Manager Approval		Initials:	Date:



**A-23-101**

**MEMORANDUM OF AGREEMENT**

This Comprehensive Community DWI Prevention Program is between the following Task Force Agencies:

- \_\_\_\_\_ **City of Artesia** \_\_\_\_\_
- \_\_\_\_\_ **City of Carlsbad** \_\_\_\_\_
- \_\_\_\_\_ **Village of Hope** \_\_\_\_\_
- \_\_\_\_\_ **County of Eddy** \_\_\_\_\_
- \_\_\_\_\_

This agreement is effective on the 20th (day) of June (mo.) 2023 (yr), but is not a valid and binding agreement until executed by all parties thereto. The parties agree as follow:

To file a joint application to the New Mexico Department of Transportation Department, Traffic Safety Division for funding of a comprehensive Community DWI Program that reflects an integrated approach to our mutual problem of driving while intoxicated.

The Agencies listed above agree to combine our funds and resources in achieving a common goal of removing the DWI from the streets and highways of Eddy County (City of, County of, Town of, Village of) thus reducing our highway traffic accidents that are alcohol related.

We will establish a joint Task Force as provided for and described in the CDWI Program Manual.

The (City of, County of, Town of, Village of) Eddy County agrees to be the fiscal agent to apply for **There is no requirement for matching funds for this program funding.**

Attest: <u>[Signature]</u>	Agency Name: <u>Mayor</u>	Date: <u>6/28/23</u>
Attest: _____	Agency Name: _____	Date: _____
Attest: _____	Agency Name: _____	Date: _____
Attest: _____	Agency Name: _____	Date: _____
Attest: _____	Agency Name: _____	Date: _____
Attest: _____	Agency Name: _____	Date: _____

EDDY COUNTY BOARD OF COMMISSIONERS  
EDDY COUNTY, NEW MEXICO

[Signature]  
Ernie Carlson, Commission Chairman

Date: June 20, 2023

ATTEST:  
[Signature]  
Cara Cooke, County Clerk



CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 07/11/2023

<b>DEPARTMENT:</b> Carlsbad Police Department	<b>By:</b>  Shane Skinner – Chief of Police	<b>DATE:</b> 07/05/2022
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**SUBJECT: FY 2024 E911 Grant Agreement**

**BACKGROUND, ANALYSIS AND IMPACT:** (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

This Grant Agreement is with the NM Department of Finance and Administration, Local Government Division for the Enhanced 911 Act. The 911 telephone emergency system is necessary to expand the benefits of the basic 911 emergency telephone number to achieve a faster response time which minimizes the loss of life and property. The State Board of Finance awarded the City of Carlsbad \$181,951 for the FY2023-FY2024.

**DEPARTMENT RECOMMENDATION:** E-911 FY24 Grant is recommended for approval.

**BOARD/COMMISSION/COMMITTEE ACTION:**

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

**Reviewed by:**  
**City Administrator:** /s/John Lowe **Date:** 07/06/2023

ATTACHMENT(S): E-911 Grant Agreement



**New Mexico**  
**Department of Finance**  
**and Administration**

407 Galisteo St,  
Santa Fe, NM 87501  
(505) 827-4985

**Governor Michelle Lujan Grisham**  
**Cabinet Secretary Designate Wayne Propst**

**Local Government Division**  
**Wesley Billingsley, Division Director**

June 21<sup>st</sup>, 2023

**Katey Prell**  
**PSAP Director, Carlsbad Police Department**  
**602 W. Mermond**  
**Carlsbad, NM 88220**

Subject: Fiscal Year 2024 E-911 Grant Agreement

Dear: **Ms. Prell**

Attached is the **City of Carlsbad** fiscal year 2024 (FY24) E-911 Grant Agreement. This Grant Agreement reflects the **City of Carlsbad** approved budget by the State Board of Finance for FY24. As the official Grantee representative responsible for the overall supervision of this grant agreement, please route the attached grant agreement for approval by your fiscal agent and signature by an Authorized Signatory.

Grant Agreements will be e-signed and executed via DocuSign. Please provide the email address for the identified authorized signatory for the fiscal agent and an envelope will be sent via DocuSign for their signature.

After the Local Government Division (LGD) signs the grant agreement, we will provide the fully executed grant agreement to you for your records. Once the grant agreement is fully executed, LGD can begin making payments for FY24 expenses.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephen Weinkauf".

Stephen Weinkauf, E-911 Bureau Chief  
Local Government Division

Attachment: FY24 E-911 Grant Agreement

STATE OF NEW MEXICO  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
LOCAL GOVERNMENT DIVISION  
ENHANCED 911 ACT GRANT PROGRAM

GRANT AGREEMENT

Project No. 24-E-28

**THIS GRANT AGREEMENT** made and entered into by and between the Department of Finance and Administration (DFA) acting through the Local Government Division, Bataan Memorial Building, Suite 202, Santa Fe, New Mexico 87501, hereinafter called the “**Division**”, and the **City of Carlsbad**, hereinafter called the “**Grantee**”, and collectively referred to as the “**Parties**”.

**WITNESSETH:**

**WHEREAS**, this Grant Agreement is made by and between the DFA, acting through the Division, and the Grantee, pursuant to the authority in the Enhanced 911 Act, Sections 63-9D-1 *et seq.* NMSA 1978, (hereinafter referred to as the “**Act**”) as amended, and the Enhanced 911 Rules, Section 10.6.2 NMAC (hereinafter referred to as the “**Enhanced 911 Requirements**” or “**E-911 Rules.**”); and

**WHEREAS**, an enhanced 911 telephone emergency system is necessary to expand the benefits of the basic 911 emergency telephone number, to achieve a faster response time which minimizes the loss of life and property, provides automatic routing to the appropriate public safety answering point (“**PSAP**”), provides immediate visual display of the location and telephone number of the caller and curtails abuse of the emergency system by documenting callers; and

**WHEREAS**, this Grant Agreement funds the **Public Safety Answering Points (PSAPs) at the City of Carlsbad, which also provides E-911 related services to City of Carlsbad, as well as E-911 related reimbursements for travel, training, and Geographic Information Systems (GIS) software and hardware; and**

**WHEREAS**, the Grantee and the Division have the authority, pursuant to the Act, NMSA 1978, Sections 63-9D-1 *et seq.*, and the E-911 Rules, to enter into this Grant Agreement; and

**WHEREAS**, the Grantee complies with the definition of “**Grantee**” in Section 10.6.2.7(HH) NMAC, of the E-911 Rules; and

**WHEREAS**, the Division has the authority, pursuant to NMSA 1978, Section 63-9D-8, to administer the Enhanced 911 fund; and

**WHEREAS**, on **June 20, 2023**, the State Board of Finance awarded the Grantee **\$181,951.00** for enhanced 911 services and equipment.

**NOW, THEREFORE**, the Parties agree as follows:

**ARTICLE I - LENGTH OF GRANT AGREEMENT**

A. Unless terminated earlier pursuant to Article IV herein, the term of this Grant Agreement, upon being duly executed by the Division, shall be from **July 1, 2023**, through **June 30, 2024**.

B. In the event that, due to unusual circumstances, it becomes apparent that this Grant Agreement cannot be brought to full completion within the time period set forth in

Paragraph A above, the Grantee shall so notify the Division in writing at least thirty (30) days prior to the termination date of this Grant Agreement, for the purpose of allowing the Grantee and the Division to review the work accomplished to date and determine whether there is need or sufficient justification to amend this Grant Agreement and to provide additional time for completing the same. The Division's decision whether or not to extend the term of this Grant Agreement is final and non-appealable.

## **ARTICLE II – REPORTS**

A. **PSAP Annual Report**: No later than June 30th of each year, the Grantee shall submit to the Division a PSAP Annual Report, in the form attached hereto as Exhibit A, as may be changed from time to time upon the Division's written notice to the Grantee. The PSAP Annual Report shall include information described in Section 10.6.2.11.D NMAC, of the E-911 Rules, and any such other information as the Division may request, in sufficient detail to evaluate the effectiveness of the 911 equipment and services provided by the equipment vendor.

B. **Federal 911 Resource Center Report**: No later than January 30th of each year, the Grantee shall submit to the Division a Federal 911 Resource Center Report, in the form attached hereto as Exhibit B, as may be changed from time to time upon the Division's written notice to the Grantee.

## **ARTICLE III - CONSIDERATION AND METHOD OF PAYMENT**

A. In consideration of the Grantee's satisfactory completion of all work, purchase and maintenance of the equipment and services required to be performed in compliance with all the terms and conditions of this Grant Agreement, the Division shall pay the Grantee a sum not to exceed **\$181,951.00** from the Enhanced 911 fund in accordance with Article III (D). The funds are to be expended in accordance with the approved Expenditure Budget ("Budget"), attached to and incorporated by reference as Exhibit C, and in accordance with Section 10.6.2.11 NMAC of the E-911 Rules, "PSAP Equipment, Acquisition, and Disbursement of Funds." It is understood and agreed that the Grantee's expenditure of these monies shall not deviate from the line items of the Budget without the prior written approval of the Division, and the funds shall not be expended for ineligible costs via Section 10.6.2.11(F) NMAC of the E-911 Rules.

B. The funds mentioned in Paragraph A above shall constitute full and complete payment of monies to be received by the Grantee from the Division.

C. It is understood and agreed that if any portion of the funds set forth in Paragraph A above is not expended for the purpose of this Grant Agreement, after all conditions of this Grant Agreement have been satisfied or it has been demonstrated that the conditions of the Grant Agreement, for whatever reason, cannot be satisfied, the unexpended funds shall be reverted by the Division in accordance with the Act and the E-911 Rules.

D. Pursuant to NMSA 1978, Section 63-9D-8, as amended, payments will be made from the Enhanced 911 fund to, or on behalf of, participating local governing bodies or their fiscal agents upon vouchers signed by the director of the Division solely for the purpose of reimbursing local governing bodies or their fiscal agents, commercial mobile radio service providers or telecommunications companies for their costs of providing enhanced 911 service.

E. Payments may be made by the Division as follows: 1) on behalf of the Grantee to telecommunications companies, vendors and equipment providers; or 2) reimbursements to

the Grantee for actual costs or expenditures after the Division receives a completed Request for Payment Form, or an invoice certified correct by the Grantee and/or the Division for the E-911 equipment, equipment maintenance, and upgrades billed by the equipment provider. All purchases made by the Grantee for equipment, equipment maintenance, and upgrades require prior written approval by the Division to be eligible for reimbursement.

F. Payments will not be made to the Grantee for work, equipment, maintenance or services not specified in this Grant Agreement or in violation of or ineligible under the E-911 Rules.

#### **ARTICLE IV - MODIFICATION, TERMINATION AND MERGER**

A. Early Termination. Except as provided in Article IV (D) below, this Grant Agreement may be terminated by either Party upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Grant Agreement, the Division's sole liability upon termination shall be to pay for eligible budget items purchased prior to the Grantee's receipt of the notice of termination, if the Division is the terminating party, or upon the Grantee sending a notice of termination, if the Grantee is the terminating party. A notice of termination will not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Grant Agreement. The Grantee shall submit an invoice for such eligible budget items within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Grant Agreement may be terminated immediately upon written notice to the Grantee if the Grantee becomes unable to or fails to perform the terms of this Agreement, as determined by the Division or if, during the term of this Grant Agreement, the Grantee or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE DIVISION'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE GRANTEE'S DEFAULT/BREACH OF THIS GRANT AGREEMENT, INCLUDING BUT NOT LIMITED TO, RETURN OF MISSPENT GRANT FUNDS BY THE GRANTEE TO THE DIVISION.*

B. Termination Management. Immediately upon receipt by either the Division or the Grantee of a notice of termination of this Grant Agreement, the Grantee shall: 1) not incur any further obligations for expenditure of funds under this Grant Agreement without written approval of the Division; and 2) comply with all directives issued by the Division in the notice of termination as to the performance under this Grant Agreement.

C. This Grant Agreement incorporates all agreements, covenants and understandings between the parties concerning the subject matter of this Grant Agreement and all such agreements, covenants and understandings have been merged into this written Grant Agreement. No prior agreements, covenants, or understandings oral or otherwise, of the parties or their agents shall be valid and enforceable unless embodied in this Grant Agreement.

D. The terms of this Grant Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of the Grant Agreement. If sufficient appropriations and authorizations are not made by the Legislature, the Division may *immediately* terminate this Grant Agreement, in whole or in part, regardless of any existing legally binding third-party contracts entered into by or between the Grantee and a third party, by giving the Grantee written notice of such immediate early termination. The Division's decision as to whether sufficient appropriations are available shall be final and non-appealable. The Grantee shall include a substantively identical clause in all contracts between it and third parties that are (i) funded in whole or in

part by funds made available under this Grant Agreement and (ii) entered into between the effective date of this Grant Agreement and the termination date or early termination date.

#### **ARTICLE V - CERTIFICATION**

The Grantee assures and certifies that it will comply with all state laws, the E-911 Rules, and all other laws, rules, policies and procedures with respect to the acceptance and use of State funds. Further and without limiting the foregoing, the Grantee gives assurances and certifies with respect to the Grant that:

- A. It will comply with the New Mexico Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199.
- B. It will adhere to all financial and accounting requirements of the DFA.
- C. It will comply with all requirements set forth in the Act and prescribed by the Division in its E-911 Rules, or other guidelines and procedures in relation to receipt and use of State Enhanced 911 Grant Funds.
- D. It shall not at any time utilize or convert any equipment or property acquired or developed pursuant to this Grant Agreement for other than the uses specified, without the prior written approval of the Division.
- E. It will comply with NMSA 1978, Section 63-9D-4D and provide GIS addressing and digital mapping data to the appropriate PSAP and to the Division.
- F. It accepts responsibility for coordinating and providing accurately maintained GIS addressing, road centerline, boundary and other data in the service area to the Division per Section 10.6.2 NMAC. This information will be compliant with the statewide dataset used by the local PSAPs.
- G. It agrees and acknowledges that all GIS data provided to the Division's statewide dataset in support of the E-911 program is public data and shall be shared with other governmental agencies.
- H. It will finance any amount exceeding the approved funding for the 911 equipment costs.
- I. It will not make any changes in the E-911 system configuration without first submitting a written request to the Division and obtaining the Division's written approval of the proposed change(s).
- J. It will provide to the Division documentation of total insurance coverage for all hardware and software and other equipment purchased with E-911 funds. Insurance should, at a minimum, cover non-routine maintenance defects including, but not limited to, all acts of God, floods, fire, lightning strikes and water damage.
- K. It will provide all the necessary qualified personnel, material, and facilities to run the E-911 PSAP.
- L. It will submit all project related contracts, subcontracts, and agreements to the Division for administrative review and approval prior to execution for compliance with the E-911 program requirements and not for legal sufficiency. Amendments to existing contracts also must be submitted to the Division for review and approval prior to execution.

M. It will comply with the PSAP consolidation requirement pursuant to Section 10.6.2.15 NMAC of the E-911 Rules.

#### **ARTICLE VI - RETENTION OF RECORDS**

The Grantee shall keep and preserve such records as will fully disclose the amount and disposition of the total funds from all sources budgeted for a period of six (6) years from the termination of the Grant Agreement, the purpose of undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as the Division shall prescribe.

#### **ARTICLE VII – REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS GRANT AGREEMENT**

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

“This contract is funded in whole or in part by funds made available under a Department of Finance and Administration, Local Government Division (Division) Grant Agreement. Should the Division or the [insert name of Grantee] terminate the Grant Agreement, the [insert name of Grantee] may terminate this contract by providing the Contractor written notice of the termination in accordance with the notice provisions in this contract. In the event of termination pursuant to this paragraph, the Grantee’s only liability shall be to pay the Contractor for acceptable goods/equipment and/or services delivered and accepted prior to the termination date.”

#### **ARTICLE VIII - REPRESENTATIVES**

A. The Grantee hereby designates the person listed below as the official Grantee representative responsible for the overall supervision of this Grant Agreement:

Name: **Katey Prell**  
Title: **Commander, Carlsbad Police Department**  
Address: **602 W. Mermond  
Carlsbad, NM 88220**

Phone: **575-885-2111 ext 2201**  
Fax: **575-885-6547**  
Email: **kaprell@cityofcarlsbadnm.com**

B. The Division designates the person listed below responsible for the overall administration of this Grant Agreement, including compliance and monitoring of the Grantee:

Name: **Stephen Weinkauf, or his successor**  
Title: **E-911 Bureau Chief**  
Address: **Department of Finance and Administration  
Local Government Division  
Bataan Memorial Building, Suite 202  
Santa Fe, New Mexico 87501**

Phone: **505-660-3637**  
Fax: **505-827-4948**  
Email: [Stephen.Weinkauf@dfa.nm.gov](mailto:Stephen.Weinkauf@dfa.nm.gov)



**IN WITNESS WHEREOF**, the Grantee and the Division do hereby execute this Grant Agreement.

**THIS GRANT AGREEMENT** has been approved by:

**GRANTEE**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title, Organization)

**GRANTEE**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title, Organization)

**DEPARTMENT OF FINANCE AND ADMINISTRATION, LOCAL GOVERNMENT DIVISION**

By: \_\_\_\_\_  
Wesley Billingsley, Local Government Division Director

\_\_\_\_\_  
Date

**Exhibit A**

**PSAP Annual Report  
DUE JUNE 30<sup>th</sup>, 2024**

Please complete the PSAP Annual Report on-line at: [PSAP Annual Report Form](https://docs.google.com/forms/d/e/1FAIpQLSdI8-hUvKZ5By19g2JfzPP7UR4k7a6NSatPI0-M3oaLCijKOO/viewform?usp=sf_link). Or copy and paste this link into your browser: [https://docs.google.com/forms/d/e/1FAIpQLSdI8-hUvKZ5By19g2JfzPP7UR4k7a6NSatPI0-M3oaLCijKOO/viewform?usp=sf\\_link](https://docs.google.com/forms/d/e/1FAIpQLSdI8-hUvKZ5By19g2JfzPP7UR4k7a6NSatPI0-M3oaLCijKOO/viewform?usp=sf_link)

The name and photo associated with your Google account will be recorded when you upload files and submit this form. Your email is not part of your response. Any files that are uploaded will be shared outside of the organization they belong to.

*(SAMPLE)*

<b>Section 10.6.2.11 D(8)</b>	
<b>Section</b>	<b>PSAP Input</b>
PSAP Name:	
Respondent contact information:	
Exact Address of the PSAP (No P.O. Boxes)	
Number of E911 Call System positions: (if a position is used for both call taking and dispatching, list it as such)	
Number of Radio Dispatch positions:	
MIS System, include make and model:	
Mapping Server, include make and model:	
911 Call system, include make and model:	
911 Call System operating software version:	
Radio System, include make and model:	
Logging recorder, include make and model	
UPS (for 911 Equipment):	
Back-up Generator:	
Number and type of dedicated CAMA/911 circuits. Wireline/Wireless:	
PSAP Manager or coordinator and alternate: contact name, phone numbers, and email address:	
PSAP Training officer name, phone number, and email address	
MSAG coordinator name, address, phone number, and email address:	

<b>Section 10.6.2.11 D(8)</b>	
<b>Section</b>	<b>PSAP Input</b>
GIS representative name, phone number, and email address:	
CAD system, include make and model:	
10-digit administrative number: Each PSAP shall maintain at least one 10-digit administrative number. This number shall also be used to receive incoming emergency calls transferred to the PSAP by other PSAPs for certain alternate and default routing arrangements. The preferred way to transfer an emergency call is via one-button transfer via 911 trunk, but the above method can be used for PSAPs that do not have one-button transfers the above mentioned PSAP.	
PSAP insurance provider name, point of contact, and policy numbers as proof of hazard and liability insurance: (add file)	
List Back-up PSAP(s):	
Secondary PSAPs within your county: Note: "a PSAP to which 911 calls are transferred from a primary PSAP." A secondary PSAP does not receive any direct 911 calls. It only received 911 calls as transfers from another PSAP. e.g., Sheriff's office or Tribal agencies you transfer 911 calls to or do not dispatch for.	
Attach any JPA and MOU(s) documenting agreement(s): (add file)	
Upload established procedure to handle calls from speech and hearing-impaired individuals: (add file)	
Upload developed procedures for handling unanswered or silent 911 calls: (add file)	
Number of certified telecommunicators and dispatchers	

**Section 10.6.2.11 D(8)**

<b>Section</b>	<b>PSAP Input</b>
Upload Certified Dispatcher roster: (add file)	
Is your PSAP Emergency Medical Dispatch certified?	<input type="radio"/> Yes <input type="radio"/> No
Are there plans to purchase, install, or upgrade to a NG911 capable CAD? If so when is the expected upgrade?	
Are there plans to purchase, install, or upgrade to a new Radio System? If so when is the expected upgrade?	
List current MOU(s) in place with neighboring agencies, municipalities, and counties. <ul style="list-style-type: none"><li>▪ MOU(s) for overlapping dispatch jurisdiction.</li></ul>	

**Exhibit B**

**Federal 911 Resource Center Report**  
**DUE JANUARY 30<sup>th</sup>, 2024**

Call Types	Annual Total of Calls from January 1 through December 31
Wireline	
Wireless	
Voice over Internet Protocol (VoIP)	
Multiline Telephone System (MLTS)	
Telematics	
Other	
Total of All Call Types	

# New Mexico E-911 Program Grant

Exhibit C

Local Government Division

Department of Finance and Administration


<b>Grantee:</b>	City of Carlsbad	<b>Grant Award:</b>	181,951
<b>Address:</b>	602 W. Mermod	<b>Project Number:</b>	24-E-28
	Carlsbad, New Mexico 88220	<b>Grant Period:</b>	July 1, 2023 - June 30, 2024
<b>Telephone:</b>	(575) 885-2111 ext 233		
<b>Number of Funded PSAP Positions:</b>		<b>7</b>	

Budget Line Items	Total Budgeted Amount
<b>Capital</b>	
E-911 Equipment Upgrades	
NextGen 9-1-1 ESInet & NGCS	43,752
Dispatch Software	
Recorder	
UPS/Generator	
<b>Capital Subtotal</b>	<b>43,752</b>
<b>Recurring Network/Managed Services</b>	
E-911 Voice Network	35,142
Data Network	1,500
NextGen 9-1-1 ESInet	8,325
NextGen 9-1-1 NGCS	27,119
Wireless Cost Recovery	-
<b>Recurring Network/Circuit Subtotal</b>	<b>72,087</b>
<b>Recurring Maintenance</b>	
System Maintenance	41,684
<b>Recurring Maintenance Subtotal</b>	<b>41,684</b>
<b>Services/Training</b>	
911 Related Training	-
911 Related GIS	2,000
911 Consulting Services	
GIS Consulting Services	21,429
Interpretive Services	1,000
Minor Equipment	-
<b>Services/Training Subtotal</b>	<b>24,429</b>
<b>TOTAL</b>	<b>181,951</b>

**CITY OF CARLSBAD**

**AGENDA BRIEFING MEMORANDUM**

Council Meeting Date: July 11, 2023

<b>DEPARTMENT:</b> Streets	<b>By:</b> K.C. Cass, Deputy City Administrator 	<b>DATE:</b> 7/6/2023
<b>SUBJECT:</b> Renewal of Agreement between the City of Carlsbad and Garden Mart Inc. for Grounds keeping and Maintenance Services of City Wide Landscapes, Medians, and Gateways		
<b>BACKGROUND, ANALYSIS AND IMPACT:</b> (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)		
<p>The City is requesting to renew the agreement with Garden Mart Inc. for Grounds Keeping and Maintenance Services of City Wide Landscapes, Medians, Gateways and Properties. The current Agreement will expire on July 14, 2023.</p> <p>This agreement will be for a period of one year, beginning on July 14, 2023 and ending on July 14, 2024.</p>		
<b>DEPARTMENT RECOMMENDATION:</b> If it is the pleasure of the City Council, it is recommended the Agreement with Garden Mart be approved		
<b>BOARD/COMMISSION/COMMITTEE ACTION:</b>		
<input type="checkbox"/> P & Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board
<input type="checkbox"/> Museum Board	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board
<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> _____ Committee
		} <input type="checkbox"/> APPROVED
		} <input type="checkbox"/> DISAPPROVED
<b>Reviewed by:</b> City Administrator: /s/John Lowe		<b>Date:</b> 07/06/2023

Attachments: Agreement

**THIRD RENEWAL OF AGREEMENT BETWEEN THE CITY OF CARLSBAD  
AND THE GARDEN MART, INC. FOR  
GROUNDS KEEPING AND MAINTENANCE SERVICES  
OF CITYWIDE LANDSCAPES, MEDIANS, GATEWAYS AND PROPERTIES  
FOR ONE YEAR**

14<sup>th</sup> THIS THIRD RENEWAL OF AGREEMENT is entered into at Carlsbad, New Mexico, this day of July, 2023, by and between the **CITY OF CARLSBAD**, New Mexico, a municipal corporation, hereinafter referred to as "**City**" and **THE GARDEN MART, INC.**, a New Mexico corporation, hereinafter referred to as "**GMI**".

WHEREAS, there are landscapes, medians, gateways, and properties throughout the City which require City-provided grounds keeping and maintenance services; and

WHEREAS, the City requested proposals for the provision of such services on those properties in its RFP No. 2019-18; and

WHEREAS, the Carlsbad City Council awarded RFP No. 2019-18 to The Garden Mart, Inc.; and

WHEREAS, on 11 October 2019, the City and GMI entered into a one (1) year agreement for the provision of grounds keeping and landscape maintenance at the listed properties, hereinafter referred to as the "2019 Agreement"; and

WHEREAS, the parties renewed the agreement for three (3) months beginning on 14 October 2020 with a modification to the termination provision; and

WHEREAS, the parties renewed the agreement for six (6) months beginning on 13 January 2021 under the same terms and conditions as the original 2019 Agreement; and

WHEREAS, the parties renewed the agreement for one (1) year beginning on 13 July, 2022;

WHEREAS, the parties wish to renew the agreement again for one (1) additional year beginning on 13 July 2023 under the same terms and conditions as the original 2019 Agreement, except as modified in the renewal dated 14 October, 2020. .

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

1. **Attachments.** Attached to this renewal are the following documents:
  - A. **2019 Agreement.** The Agreement Between the City of Carlsbad and Garden Mart, Inc. for Grounds Keeping and Maintenance Services of Citywide Landscapes, Medians, Gateways and Properties, dated the 11<sup>th</sup> day of October 2019, hereinafter referred to as



the "2019 Agreement".

B. **First Renewal.** The First Renewal of the Agreement Between the City of Carlsbad and Garden Mart, Inc. for Grounds Keeping and Maintenance Services of Citywide Landscapes, Medians, Gateways and Properties, dated the 13<sup>th</sup> of October 2020, hereinafter referred to as the "First Renewal".

C. **Six Months Renewal.** The Six Months Renewal Agreement Between the City of Carlsbad and Garden Mart, Inc. for Grounds keeping and Maintenance Services of Citywide Landscapes, Medians, Gateways and Properties, dated the 13<sup>th</sup> day of January, 2021.

D. **Second Renewal.** The Second Renewal of the Agreement Between the City of Carlsbad and Garden Mart, Inc. for Grounds Keeping and Maintenance Services of Citywide Landscapes, Medians, Gateways and Properties, dated the 14<sup>th</sup> day of July, 2022, hereinafter referred to as the "Second Renewal".

E. **Third Renewal.** The Third Renewal of the Agreement Between the City of Carlsbad and Garden Mart, Inc. for Grounds Keeping and Maintenance Services of Citywide Landscapes, Medians, Gateways and Properties, dated the \_\_\_\_ day of July, 2023, hereinafter referred to as the "Third Renewal".

2. **One Year Renewal.** The parties agree to renew the 2019 Agreement as amended by the First, Six Months and Second Renewal for a third one (1) year term beginning on 14 July 2023 and ending on 14 July 2024.

3. **Terms.** This renewal shall be under the same terms and conditions, and the parties shall have the same rights and responsibilities as in the 2019 Agreement as amended by the First Renewal.

4. **Captions.** The captions of any 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.

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

**CITY OF CARLSBAD:**

---

DALE JANWAY, MAYOR

ATTEST:

---

CITY CLERK

STATE OF NEW MEXICO  
NOTARY PUBLIC  
OLGA E. RAMIREZ  
COMMISSION# 1080810  
EXPIRES: SEPTEMBER 21, 2023

THE GARDEN MART, INC

  
MARK WALTERSCHEID, PRESIDENT

STATE OF NEW MEXICO     )  
  ) ss.  
COUNTY OF EDDY         )

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of July, 2023, by MARK WALTERSCHEID, President, The Garden Mart, Inc.

My Commission Expires:  
9-21-23

  
NOTARY PUBLIC

**SECOND RENEWAL OF AGREEMENT BETWEEN THE CITY OF CARLSBAD  
AND THE GARDEN MART, INC. FOR  
GROUNDS KEEPING AND MAINTENANCE SERVICES  
OF CITYWIDE LANDSCAPES, MEDIANS, GATEWAYS AND PROPERTIES  
FOR ONE YEAR**

THIS SECOND RENEWAL OF AGREEMENT is entered into at Carlsbad, New Mexico, this 14<sup>th</sup> day of July, 2022, by and between the **CITY OF CARLSBAD**, New Mexico, a municipal corporation, hereinafter referred to as "City" and **THE GARDEN MART, INC.**, a New Mexico corporation, hereinafter referred to as "GMI".

WHEREAS, there are landscapes, medians, gateways, and properties throughout the City which require City-provided grounds keeping and maintenance services; and

WHEREAS, the City requested proposals for the provision of such services on those properties in its RFP No. 2019-18; and

WHEREAS, the Carlsbad City Council awarded RFP No. 2019-18 to The Garden Mart, Inc.; and

WHEREAS, on 11 October 2019, the City and GMI entered into a one (1) year agreement for the provision of grounds keeping and landscape maintenance at the listed properties, hereinafter referred to as the "2019 Agreement"; and

WHEREAS, the parties renewed the agreement for three (3) months beginning on 14 October 2020 with a modification to the termination provision; and

WHEREAS, the parties renewed the agreement for one (1) year beginning on 13 July, 2021;

WHEREAS, the parties wish to agree to renew the agreement a second time, as modified, for one (1) additional year beginning on 13 July 2022.

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

1. **Attachments.** Attached to this renewal are the following documents:
  - A. **2019 Agreement.** The Agreement Between the City of Carlsbad and Garden Mart, Inc. for Grounds Keeping and Maintenance Services of Citywide Landscapes, Medians, Gateways and Properties, dated the 11<sup>th</sup> day of October 2019, hereinafter referred to as the "2019 Agreement".
  - B. **First Renewal.** The First Renewal of the Agreement Between the City of Carlsbad and Garden Mart, Inc. for Grounds Keeping and Maintenance Services of Citywide Landscapes, Medians, Gateways and Properties, dated the 13<sup>th</sup> of October

2020, hereinafter referred to as the "First Renewal".

C. **Second Renewal.** The Second Renewal of the Agreement Between the City of Carlsbad and Garden Mart, Inc. for Grounds Keeping and Maintenance Services of Citywide Landscapes, Medians, Gateways and Properties, dated the \_\_\_ day of July, 2022, hereinafter referred to as the "Second Renewal".

2. **One Year Renewal.** The parties agree to renew the 2019 Agreement as amended by the First Renewal for a second one (1) year term beginning on 14 July 2022 and ending on 14 July 2023.

3. **Terms.** This renewal shall be under the same terms and conditions, and the parties shall have the same rights and responsibilities as in the 2019 Agreement as amended by the First Renewal.

4. **Captions.** The captions of any 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.

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



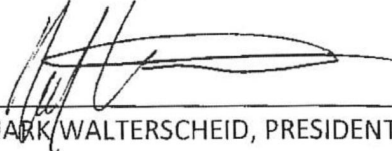
*Madeline Morales*  
CITY CLERK

CITY OF CARLSBAD:

*Dale Janway*  
DALE JANWAY, MAYOR

STATE OF NEW MEXICO  
NOTARY PUBLIC  
OLGA E. RAMIREZ  
COMMISSION# 1080810  
EXPIRES: SEPTEMBER 21, 2023

THE GARDEN MART, INC

  
MARK WALTERSCHEID, PRESIDENT

STATE OF NEW MEXICO     )  
  ) ss.  
COUNTY OF EDDY         )

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of July, 2022, by MARK WALTERSCHEID, President, The Garden Mart, Inc.

My Commission Expires:

9-21-23

  
NOTARY PUBLIC

**RENEWAL OF AGREEMENT BETWEEN THE CITY OF CARLSBAD  
AND THE GARDEN MART, INC. FOR  
GROUNDS KEEPING AND MAINTENANCE SERVICES  
OF CITYWIDE LANDSCAPES, MEDIANS, GATEWAYS AND PROPERTIES  
FOR SIX MONTHS**

1 THIS RENEWAL OF AGREEMENT is entered into at Carlsbad, New Mexico, this 13<sup>th</sup>  
2 day of JANUARY, 2021, by and between the CITY OF CARLSBAD, New Mexico, a  
3 municipal corporation, hereinafter referred to as "City" and THE GARDEN MART, INC., a New  
4 Mexico corporation, hereinafter referred to as "GMI".

5  
6 WHEREAS, there are landscapes, medians, gateways, and properties throughout the City  
7 which require City-provided grounds keeping and maintenance services; and

8  
9 WHEREAS, the City requested proposals for the provision of such services on those  
10 properties in its RFP No. 2019-18; and

11  
12 WHEREAS, the Carlsbad City Council awarded RFP No. 2019-18 to The Garden Mart, Inc.;  
13 and

14  
15 WHEREAS, on 11 October 2019, the City and GMI entered into a one (1) year agreement  
16 for the provision of grounds keeping and landscape maintenance at the listed properties, hereinafter  
17 referred to as the "2019 Agreement"; and

18  
19 WHEREAS, the parties renewed the agreement for three (3) months beginning on 14 October  
20 2020 with a modification to the termination provision; and

21  
22 WHEREAS, the parties wish to renew the agreement, as modified, for an additional six (6)  
23 months beginning on 13 January 2021.

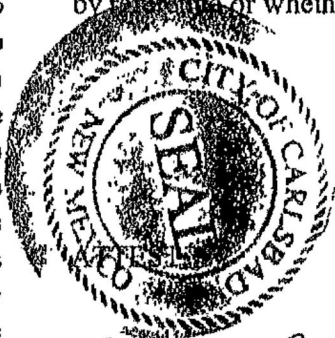
24  
25 NOW, THEREFORE, FOR THE CONSIDERATION SPECIFIED HEREIN THE PARTIES  
26 AGREE AS FOLLOWS:

- 27  
28 1. **Attachments.** Attached to this renewal are the following documents:  
29 A. **2019 Agreement.** The Agreement Between the City of Carlsbad and Garden Mart,  
30 Inc. for Grounds Keeping and Maintenance Services of Citywide Landscapes, Medians,  
31 Gateways and Properties, dated the 11<sup>th</sup> day of October 2019, hereinafter referred to as the  
32 "2019 Agreement".  
33 B. **First Renewal.** The First Renewal of the Agreement Between the City of Carlsbad  
34 and Garden Mart, Inc. for Grounds Keeping and Maintenance Services of Citywide  
35 Landscapes, Medians, Gateways and Properties, dated the 13<sup>th</sup> of October 2020, hereinafter  
36 referred to as the "First Renewal".  
37  
38 2. **Six Month Renewal.** The parties agree to renew the 2019 Agreement as amended by the  
39 First Renewal for the six (6) months beginning on 13 January 2021 and ending on 12 July 2021.

1 3. **Terms.** This renewal shall be under the same terms and conditions, and the parties shall have  
2 the same rights and responsibilities as in the 2019 Agreement as amended by the First Renewal.


3  
4 4. **Captions.** The captions of any paragraphs or sections hereof are made for convenience only  
5 and shall not control or affect the meaning or construction of any of the provisions thereof.

6  
7 5. **Exhibits.** Any instrument or document made and attached to this Agreement shall constitute  
8 a part hereof as though set forth in full in the body of this Agreement, whether made a part hereof  
9 by reference or whether made a part hereof by attachment.



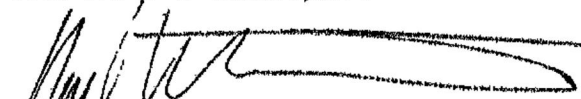
11 CITY OF CARLSBAD:

12  
13  
14   
15 DALE IANWAY, MAYOR

16  
17  
18   
19 CITY CLERK



22 THE GARDEN MART, INC

23  
24   
25 MARK WALTERSCHEID, PRESIDENT

26  
27  
28  
29  
30 STATE OF NEW MEXICO )  
31 ) ss.  
32 COUNTY OF EDDY )

33  
34 The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of  
35 December, 2020, by MARK WALTERSCHEID, President, The Garden Mart, Inc.

36  
37  
38 My Commission Expires:

39 9-21-23

40   
41 NOTARY PUBLIC

**FIRST RENEWAL  
OF AGREEMENT BETWEEN THE CITY OF CARLSBAD  
AND THE GARDEN MART, INC. FOR  
GROUNDS KEEPING AND MAINTENANCE SERVICES  
OF CITYWIDE LANDSCAPES, MEDIANS, GATEWAYS AND PROPERTIES**

1 THIS RENEWAL OF AGREEMENT is entered into at Carlsbad, New Mexico, this 13<sup>th</sup>  
2 day of October, 2020, by and between the **CITY OF CARLSBAD**, New Mexico, a  
3 municipal corporation, hereinafter referred to as "City" and **THE GARDEN MART, INC.**, a New  
4 Mexico corporation, hereinafter referred to as "GMI".

5  
6 WHEREAS, there are landscapes, medians, gateways, and properties throughout the City  
7 which require City-provided grounds keeping and maintenance services; and

8  
9 WHEREAS, the City requested proposals for the provision of such services on those  
10 properties in its RFP No. 2019-18; and

11  
12 WHEREAS, the Carlsbad City Council awarded RFP No. 2019-18 to The Garden Mart, Inc.;  
13 and

14  
15 WHEREAS, on 11 October 2019, the City and GMI entered into an agreement for the  
16 provision of grounds keeping and landscape maintenance at the listed properties, hereinafter referred  
17 to as the "2019 Agreement"; and

18  
19 WHEREAS, the parties wish to renew the 2019 Agreement for three months beginning on  
20 14 October 2020 with a modification.

21  
22 NOW, THEREFORE, FOR THE CONSIDERATION SPECIFIED HEREIN THE PARTIES  
23 AGREE AS FOLLOWS:

- 24  
25 1. Attached to this renewal is the following document:  
26 A. The Agreement Between the City of Carlsbad and Garden Mart, Inc. for Grounds  
27 Keeping and Maintenance Services of Citywide Landscapes, Medians, Gateways and  
28 Properties, dated the 11<sup>th</sup> day of October 2019, hereinafter referred to as the "2019  
29 Agreement".  
30  
31 2. The parties agree to renew the 2019 Agreement for the three months beginning on 14 October  
32 2020 and ending on 13 January 2021.  
33  
34 3. This renewal shall be under the same terms and conditions, and the parties shall have the  
35 same rights and responsibilities as in the 2019 Agreement except that Paragraph 26 shall be amended  
36 to state:  
37 26. **Termination.** Either party may terminate this Agreement without cause by providing  
38 the other part with written notice of its intention to terminate this Agreement at least fifteen



1 (15) days prior to the termination date. By such termination, neither party may nullify  
2 obligations already incurred prior to the date of termination of the Agreement. However,  
3 neither party shall have any obligation to perform services or make payment for such services  
4 rendered after such date of termination.  
5

6 4. **Captions.** The captions of any paragraphs or sections hereof are made for convenience only  
7 and shall not control or affect the meaning or construction of any of the provisions thereof.  
8

9 5. **Exhibits.** Any instrument or document made and attached to this Agreement shall constitute  
10 a part hereof as though set forth in full in the body of this Agreement, whether made a part hereof  
11 by reference or whether made a part hereof by attachment.  
12



20  
21  
22

Nadine Nieves  
CITY CLERK

CITY OF CARLSBAD:

23  
24  
25  
26  
27

[Signature]  
DALE IANWAY, MAYOR

28  
29  
30

THE GARDEN MART, INC

31  
32  
33

[Signature]  
MARK WALTERSCHEID, PRESIDENT

34  
35  
36

STATE OF NEW MEXICO )  
  ) ss.  
COUNTY OF EDDY                                    )

37  
38  
39  
40  
41  
42

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of October, 2020, by MARK WALTERSCHEID, President, The Garden Mart, Inc.

My Commission Expires:

9-21-23

Olga Ramuz  
NOTARY PUBLIC

**AGREEMENT BETWEEN  
THE CITY OF CARLSBAD AND GARDEN MART, INC.  
FOR GROUNDS KEEPING AND MAINTENANCE SERVICES  
OF CITYWIDE LANDSCAPES, MEDIANS, GATEWAYS, AND PROPERTIES**

1 THIS AGREEMENT is entered into at Carlsbad, New Mexico, this 11<sup>th</sup> day of October  
2 \_\_\_\_\_, 2019, by and between the CITY OF CARLSBAD, New Mexico, a municipal corporation,  
3 hereinafter referred to as "City," and THE GARDEN MART, INC., a New Mexico corporation,  
4 hereinafter referred to as "GMI".

5  
6 WHEREAS, there are landscapes, medians, gateways, and properties throughout the City  
7 which require grounds keeping and maintenance services; and

8  
9 WHEREAS, the City requested proposals for the provision of such services on those  
10 properties in its RFP No. 2019-18; and

11  
12 WHEREAS, The Garden Mart, Inc. submitted a response to the RFP; and

13  
14 WHEREAS, GMI's response was recommended by a selection committee; and

15  
16 WHEREAS, the Carlsbad City Council awarded RFP No. 2019-18 to GMI subject to the  
17 negotiation of a satisfactory agreement.

18  
19  
20 NOW THEREFORE, the parties, in consideration of the mutual covenants and agreements  
21 herein contained, agree as follows:

22  
23 1. **Property Descriptions.** The City of Carlsbad property ("Property" or "Properties") subject  
24 to this agreement are those locations listed on the attached Exhibit "A".

25  
26 2. **AS IS Condition.** Prior to the commencement of this Agreement, GMI has fully examined  
27 and inspected the Properties and all improvements, buildings, fixtures, appliances, and personal  
28 property therein. GMI accepts the Properties and such improvements, buildings, fixtures, appliances,  
29 and personal property in their existing condition and state of repair. GMI accepts them in an **AS IS**  
30 **CONDITION**. GMI agrees that no representations, statements, or warranties, express or implied,  
31 have been made by or on behalf of the City in respect thereto, including, but not limited to their  
32 suitability for any purpose, and the City shall in no event be liable for any latent defects.

33  
34 3. **GMI Provided Services.** GMI shall provide the City with full grounds keeping and  
35 maintenance services at the Properties including, but not limited to, the following:

36  
37 A. **General Services.** General Services as defined herein.

38  
39 B. **Grounds Keeping and Maintenance Services.** Grounds Keeping and Maintenance  
40 Services as defined herein.

1 4. General Services. "General Services" shall include, but not necessarily be limited to, the  
2 following:

3 A. **Meetings.** Attend such meetings as may be requested from time to time by the  
4 governing body of the City of Carlsbad, the City Administrator, or City staff.

5 B. **Monthly Reports.** Prepare and submit monthly maintenance reports no later than  
6 the 5<sup>th</sup> of each month. The report shall be in a format and contain the information required  
7 by the City, including, but not limited to an accounting of the services provided at each  
8 Property, the number of man-hours of services provided, and a description of the service  
9 provided.

10 C. **Annual Budget.** No later than March 1<sup>st</sup> of each year, GMI shall provide the City  
11 with an itemized budget for the City's following fiscal year's expenses for the items to be  
12 provided by the City pursuant to Paragraph 6, below.

13 D. **Additional Duties.** Such additional duties as may from time to time be mutually  
14 agreed to by the parties.

15 E. **Equipment.** Provide all equipment and tools required to satisfactorily and efficiently  
16 perform the services and duties required by this Agreement and all acquisition, repair,  
17 maintenance, and operational costs of such equipment or tools. All equipment shall be  
18 specifically designed and developed by its manufacturer for the intended task within the  
19 scope of services rendered by GMI. All equipment used shall be sized appropriately for the  
20 work within the operating environment of the Properties.

21 F. **Materials.** Provide all materials required to satisfactorily and efficiently perform the  
22 services and duties required by this Agreement including, but not limited to:

23 i. Pesticides;

24 ii. Materials required for vermin control;

25 iii. Fertilizers;

26 iv. Herbicides; and

27 v. Irrigation system materials needed for the maintenance and repair of the  
28 irrigation systems including damage caused by traffic accidents.

29 G. **Labor.** Provide all managerial, supervisory, skilled and unskilled labor required to  
30 satisfactorily and efficiently perform the services and duties required by this Agreement.

31  
32 5. Grounds Keeping and Maintenance Services. "Grounds Keeping and Maintenance  
33 Services" shall include all services required to assure that the Properties are well maintained,  
34 manicured, and provide a safe and attractive environment. Those services shall include, but not  
35 necessarily be limited to, the following:

36 A. **Weed Control Program.** GMI shall develop, implement, and maintain a written  
37 Weed Control Program to minimize the occurrence of weeds within the Properties. Weeds  
38 that do occur on the Properties shall be kept shorter than five inches (5") tall at all times. The  
39 Program shall utilize a combination of herbicides, biological controls, and mechanical  
40 eradication. The written Program shall be provided to the City for its review and approval  
41 prior to implementation. Should the City wish to change the previously approved Program,  
42 it shall notify GMI in writing of the proposed change. GMI shall then estimate the increase  
43 or decrease in the cost of this Agreement should the change be implemented. GMI shall not  
44 implement the change until authorized to do so by the City in writing.

1 B. **Fertilizer Program.** GMI shall develop, implement, and maintain a written Fertilizer  
2 Application and Management Program to develop and maintain a continuing program to  
3 appropriately fertilize all beneficial vegetation within the Properties. The written Program  
4 shall be provided to the City for its review and approval prior to implementation. Should the  
5 City wish to change the previously approved Program, it shall notify GMI in writing of the  
6 proposed change. GMI shall then estimate the increase or decrease in the cost of this  
7 Agreement should the change be implemented. GMI shall not implement the change until  
8 authorized to do so by the City in writing.

9 C. **Water Management Program.** GMI shall develop, implement, and maintain a  
10 written Water Management Program to appropriately irrigate all vegetation on the Properties.  
11 The Program shall maximize plant health, minimize water use and possible damage to City  
12 property, and eliminate any over-water use. The program shall include the following  
13 elements, as applicable:

14 i. Continuous evaluation of the moisture content of all soils to assure that all  
15 vegetation receives adequate moisture for optimal growth. Methods of moisture  
16 content detection shall include observation of plant stress, soil probing, and meter  
17 monitoring as needed. Irrigation scheduling will be performed to encourage deep  
18 roots, including deep watering through use of multiple repeat cycles.

19 ii. Random checks on an ongoing basis of all spray heads and other components  
20 of the systems such that each entire system is checked each month to assure that all  
21 components of the irrigation systems are kept in proper working order, as per  
22 manufacturers' specifications. Malfunctioning components shall be corrected  
23 immediately.

24 iii. Weekly or bimonthly reprogramming of the irrigation controllers. Soil  
25 moisture levels shall be inspected throughout planted areas, and appropriate  
26 adjustments made to the irrigation schedule. The irrigation schedules shall comply  
27 with City mandated "odd/even address" watering schedules using the location of the  
28 water meter for the section as the applicable street address.

29 iv. Monthly activation of all irrigation valves. Each valve shall be operated  
30 individually to inspect for and correct the following conditions:

- 31 a. Misaligned irrigation heads;
- 32 b. Clogged or obstructed heads;
- 33 c. Missing or damage heads;
- 34 d. Low-head drainage conditions;
- 35 e. Overspray onto impervious or non-landscaped surfaces;
- 36 f. Poor coverage or uniformity;
- 37 g. Stuck valves;
- 38 h. Broken risers, laterals, or mains;
- 39 i. Irrigation spray nozzles not of a height sufficient to clear the highest  
40 unmowed turf; and
- 41 j. Unbalance of various heads on a single circuit.

42 v. Irrigation system pressure to be checked and adjusted at least monthly to  
43 insure efficient operation of irrigation systems.

1 vi. All irrigation replacement parts to be checked and adjusted at least monthly  
2 to insure efficient operation of irrigation systems.

3 vii. Turf spray heads to be uniform in output and kept adjusted for accurate throw.  
4 If the irrigation is not adequate to provide uniform coverage, Garaz shall upgrade the  
5 system to achieve site efficiency.

6 The written Program shall be provided to the City for its review and approval prior to  
7 implementation. Should the City wish to change the previously approved Program, it shall  
8 notify GMI in writing of the proposed change. GMI shall then estimate the increase or  
9 decrease in the cost of this Agreement should the change be implemented. GMI shall not  
10 implement the change until authorized to do so by the City in writing.

11 D. **Plant Program.** GMI shall develop, implement, and maintain a written Plant  
12 Supplement and Replacement Program to appropriately supplement existing vegetation and  
13 replace vegetation that requires replacement for safety, aesthetics, or because of loss or  
14 damage. All plant materials shall be of the type, kind, and size capable of growth and  
15 aesthetically comparable to and compatible with adjacent plantings. The written Program  
16 shall be provided to the City for its review and approval prior to implementation. Should the  
17 City wish to change the previously approved Program, it shall notify GMI in writing of the  
18 proposed change. GMI shall then estimate the increase or decrease in the cost of this  
19 Agreement should the change be implemented. GMI shall not implement the change until  
20 authorized to do so by the City in writing.

21 E. **General Grounds Maintenance.** Complete grounds keeping and maintenance  
22 services at the Properties as described in Exhibit B.

23  
24 6. **City Provided Services.** The City shall be responsible for the following at the Properties:

25 A. **Utility Services.** The City shall pay all reasonable utility expenses including, where  
26 available, water service and electric service.

27 B. **Plants.** The City shall provide landscaping trees, shrubs, and other plants as needed  
28 as additions to or replacements of damaged or dead vegetation. GMI shall be responsible for  
29 labor and materials to install the trees, shrubs, and other plants.

30 C. **Repairs.** Except for damage or vandalism by GMI's officers, employees, or agents,  
31 and for damage to the irrigation systems, the City shall provide structural, electrical and  
32 mechanical repair or maintenance of Properties and those repairs covered by the City's  
33 insurance.

34 E. **Excess Materials.** All items and materials acquired by the City that exceed the  
35 actual quantities required for a specific task shall remain the property of the City and shall  
36 only be used for other purposes at or on a Property as specifically authorized by the City in  
37 writing.

38 F. **Reimbursement.** The City shall not reimburse GMI for any materials acquired by  
39 GMI unless the acquisition was authorized by the City in writing prior to the acquisition.

40  
41 7. **Compensation.** In consideration for all services provided pursuant to this Agreement, the  
42 City shall pay GMI Twelve Thousand Five Hundred dollars and 00/100ths per month  
43 (\$12,500.00/mo.) plus applicable gross receipt taxes. GMI shall be responsible for the payment of

1 all taxes and fees. GMI shall submit an invoice to the City by the fifth (5<sup>th</sup>) day of each month for  
2 the previous month's services.

3  
4 8. Term. The term of this Agreement shall be for one (1) year beginning on the 14<sup>th</sup> day of  
5 October 2019, and terminating on the 13<sup>th</sup> day of October 2020. This Agreement may be renewed  
6 for three (3) additional one (1) year terms upon the mutual agreement of the parties upon such terms  
7 and conditions as may be mutually agreeable. Not later than thirty (30) days before the expiration  
8 of this contract, if both parties desire to renew for an additional year, the parties shall meet to  
9 negotiate renewal terms and conditions, including compensation.

10  
11 9. Compliance with Laws. GMI and its officers, employees, and agents shall comply with all  
12 applicable local, state, and federal laws, rules, regulations, and policies. In the event GMI or its  
13 officers, employees, or agents should fail to comply with all applicable local, state, and federal laws,  
14 rules, regulations, and policies, GMI shall immediately cease the noncompliance and inform the City  
15 Administrator of the matter. Within five (5) days, GMI shall also notify the City Street  
16 Superintendent in writing of that event.

17  
18 10. Licenses. GMI and its officers, employees, and agents shall obtain and continuously  
19 maintain any and all permits, licenses, or certifications that may be necessary to carry out the  
20 operations contemplated by this Agreement. Such permits, licenses, and certifications shall include,  
21 but not limited to, those needed to use pesticides, vermin control, fertilizers, and herbicides, and to  
22 perform irrigation system installation, repair, and maintenance. GMI shall annually provide the City  
23 with written proof that he, its officers, employees, or agents have the permits, licenses, and  
24 certifications that may necessary to carry out the operations contemplated by this Agreement. GMI  
25 shall provide the City with written notice of any change in any permit, license, or certification and  
26 furnish to the City written proof of acquirement of a new or substitute permit, license, or  
27 certification. In the event GMI or its officers, employees, or agents should cease to be properly  
28 permitted, licensed, or certified, he shall immediately inform the City Administrator and shall  
29 immediately cease its operations pursuant to this Agreement. Within five (5) days of ceasing to be  
30 properly permitted, licensed, or certified, GMI shall also notify the City in writing of that event.

31  
32 11. Prevention of Waste and Damage. GMI shall use all reasonable cautions to prevent waste,  
33 damage, or injury to the Properties, structures, vegetation, monuments, utilities or other  
34 improvements in the performance of its obligations under this Agreement. GMI shall be solely  
35 responsible for any damage to or destruction of the Properties' structures, vegetation, monuments,  
36 utilities or other improvements caused by the acts, willful or otherwise, of GMI's officers,  
37 employees, or agents.

38  
39 12. Reporting Damage. GMI shall immediately verbally report any vandalism, damage, or  
40 destruction to the Properties or structures, vegetation, monuments, utilities or other improvements  
41 whether caused by GMI or not as well as any repair or maintenance needed to be performed by the  
42 City. He shall also report such matters in writing within five (5) business days.

1       13.    Storage of Equipment and Materials. GMI shall be solely responsible for the proper  
2 handling and storage of all equipment, materials, and other items including materials provided by  
3 the City. All equipment, materials, junk, debris, waste, and unsightly mater shall be removed  
4 promptly from the Properties. There shall be no storage on the Properties overnight. The City shall  
5 not be responsible for any damage or injury to equipment, materials, or other items. GMI shall be  
6 solely responsible for the security of all equipment, materials, or other items, and for insuring them.  
7 GMI shall be solely responsible for any waste or damage to or destruction of the City provided  
8 materials or its own equipment and materials caused by the acts, willful or otherwise, by GMI's  
9 officers, employees, or agents or GMI's failure to provide adequate insurance, security, or protection  
10 from inclement weather.

11  
12       14.    Structural Changes. GMI shall not make any structural changes to the Properties or to any  
13 structure or building used by GMI, without the prior written consent of the City. All such changes  
14 shall be performed in a workmanlike manner and shall be done in accordance with all applicable  
15 laws, rules, and regulations. All alterations, additions, and improvements to the Properties shall  
16 become a part of the Properties and the sole property of the City, except as agreed by the parties in  
17 writing. GMI shall also:

18           A.    City Approval. Submit all plans and specifications to the City Administrator for  
19 written approval prior to commencing any work; and

20           B.    Filing. File with and obtain the approval of all plans and specifications with all  
21 governmental departments and authorities having jurisdiction, prior to the commencement  
22 of any work.

23           C.    Licensed Contractor. All such activity shall be done by appropriately licensed  
24 contractors and shall be done in accordance with all applicable laws, rules, and regulations.

25  
26       15.    Right to Enter and Inspect. The City shall have the right to enter the Properties and to  
27 inspect the Properties or to have a third party enter and inspect the Properties and all improvements,  
28 structures, and appurtenances at any reasonable time

29  
30       16.    Surrender of Properties. GMI shall, on the last day of the term of this Agreement or on  
31 earlier termination and forfeiture of this Agreement, peaceably and quietly surrender and deliver the  
32 Properties free of subtenancies, including all additions and improvements constructed or placed  
33 thereon by GMI, except movable trade fixtures, all in good condition and repair. Any trade fixtures  
34 or personal property belonging to GMI, not removed within 30 days after the termination of this  
35 Agreement, and if the City shall so elect, shall be deemed abandoned and become the property of the  
36 City without any payment or offset thereof.

37  
38       17.    Destruction of Properties. In the event a Property or any portion of it is totally destroyed  
39 or so partially destroyed or damaged as to render it incapable of reasonable use, then the City may,  
40 at its sole discretion, choose to repair the damage or destruction or choose to terminate this  
41 Agreement without incurring any penalty or further liability.

1 18. **Records.** For the term of this Agreement and for five (5) years after the expiration or  
2 termination of this Agreement, GMI shall maintain copies of all records regarding any and all  
3 activities he conducts pursuant to this Agreement. The City shall have the right to inspect and copy  
4 such records upon reasonable notice to GMI.

5  
6 19. **Indemnification.** GMI agrees to indemnify, save, and hold harmless the City, its officers,  
7 and employees against all liability, claims, damages, losses, or expenses of every kind, including  
8 reasonable attorneys' fees together with costs and expenses of litigation, arising out of, from, or  
9 associated in any manner with the acts or omissions of GMI, its officers, employees, or agents.

10  
11 20. **Insurance.** At all times material to this Agreement:

12 A. **Public Liability Insurance.** GMI shall obtain and maintain, at its own expense,  
13 public liability and automobile liability insurance insuring against such claims and which  
14 insurance names the City as an additional insured. This insurance shall have an aggregate  
15 limit in the amount of one million dollars (\$1,000,000.00).

16 B. **Certificate Insurance.** GMI shall provide the City with a current Certificate of  
17 Insurance. The insurance shall be with a company or companies licensed and authorized to  
18 do business in the State of New Mexico. GMI shall annually furnish to the City a Certificate  
19 of Insurance for the above required insurances. GMI shall provide the City with notice of  
20 any change thereof, and furnish to the City evidence of acquirement of a substitute therefore,  
21 and payment of the premium thereof.

22 C. **Tort Claims Act.** The City and its "public employees" as defined in the New  
23 Mexico Tort Claims Act do not waive any sovereign immunity, defense, or limitation of  
24 liability pursuant to law. No provision of this Agreement modifies and/or waives any  
25 provision of the New Mexico Tort Claims Act.

26  
27 21. **Release.** GMI, upon final payment of the amount due under this Agreement, releases the  
28 City, its officers, and employees from all liabilities, claims, and obligations whatsoever arising from  
29 or under this Agreement. GMI agrees not to purport to bind the City of Carlsbad, unless GMI has  
30 express written authority to do so, and then only within the strict limits of that authority.

31  
32 22. **Default or Breach.** Each of the following event shall constitute a default or breach of this  
33 Agreement:

34 A. **Bankruptcy.** If GMI, during the term of this Agreement, shall file a petition in  
35 bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily  
36 take advantage of any such act by answer or otherwise, or shall make an assignment for the  
37 benefit of creditors,

38 B. **Involuntary Proceedings.** If involuntary proceedings under any bankruptcy law or  
39 insolvency act shall be instituted against GMI, or if a receiver or trustee shall be appointed  
40 for all or substantially all of the property of GMI and such proceedings shall not be dismissed  
41 or the receivership or trusteeship vacated within sixty (60) days after the institution or  
42 appointment.



1 C. **Failure to Comply.** If GMI fails to perform or comply with any of the conditions  
2 of this Agreement, and if the nonperformance shall continue for a period of fifteen (15) days  
3 after notice thereof by the City to GMI, or, if the performance cannot be reasonably had  
4 within the fifteen (15) day period, and GMI shall not in good faith have commenced  
5 performance within the fifteen (15) day period and then diligently proceeded to completion  
6 of performance.

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

9  
10 23. **Effect of Default.** In the event of default hereunder as set forth in this Agreement, the rights  
11 of the non-defaulting party shall be as follows:

12 A. **Cancel.** The non-defaulting party shall have the right to cancel and terminate this  
13 Agreement. On expiration of the time fixed in the notice, this Agreement and all rights, title,  
14 and interest of the defaulting party hereunder shall terminate in the same manner and with  
15 the same force and effect, except as to the defaulting party's liability, as if the date fixed in  
16 the notice of cancellation and termination were the end of the term herein originally  
17 determined.

18 B. **Payment.** The non-defaulting party may elect, but shall not be obligated, to make  
19 any payment required of the defaulting party herein or comply with any agreement, term, or  
20 condition required hereby to be performed by the defaulting party, and the non-defaulting  
21 party shall have the right to enter the Properties for the purpose of directing or remedying any  
22 such default and to remain until the default has been corrected or remedied; but any  
23 expenditure for correction by the non-defaulting party shall not be deemed to waive or  
24 release the default of the defaulting party or the right of the non-defaulting party to take any  
25 action as may be otherwise permissible or to seek other remedy under the law.

26  
27 24. **Non-Waiver.** Waiver by the City of any default in performance by GMI of any of the terms  
28 or conditions contained in this Agreement shall not be deemed a continuing waiver of that default  
29 or any subsequent default.

30  
31 25. **Funding Availability.** The funding of this Agreement is subject to the availability and  
32 appropriation of funds by the City Council of Carlsbad, New Mexico. If sufficient funding is not  
33 available or not appropriated by the City Council, then this Agreement is terminated and the City  
34 shall not incur any penalty or further liability.

35  
36 26. **Termination.** Either party may terminate this Agreement without cause by providing the  
37 other party with written notice of its intention to terminate this Agreement at least ninety (90) days  
38 prior to the termination date. By such termination, neither party may nullify obligations already  
39 incurred prior to the date of termination of the Agreement. However, neither party shall have any  
40 obligation to perform services or make payment for such services rendered after such date of  
41 termination.

1 27. Entirety of Agreement. This Agreement incorporates all the agreements, covenants, and  
2 understandings between the parties hereto concerning the subject matter hereof, and all such  
3 covenants, agreements, and understandings have been merged into this written Agreement. No prior  
4 agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or  
5 enforceable unless embodied in this Agreement. The parties expressly waive any other or further  
6 representations, warranties, or agreements not set forth in this document. This Agreement cannot  
7 be changed except by a written instrument subsequently executed with the same formalities as with  
8 this Agreement.

9  
10 28. Assignment of Agreement. Neither GMI nor its successors or assigns, if any, shall assign,  
11 transfer, mortgage, pledge, or encumber any interest in or right to this Agreement or the Properties  
12 without the prior written approval of the City. If there is an approved assignment, transfer, mortgage,  
13 pledge, or encumbrance, GMI shall continue to be liable hereunder in accordance with the terms and  
14 conditions of this Agreement and shall not be released from the performance of the terms and  
15 conditions hereof. The consent by the City to an assignment, transfer, mortgage, pledge, or  
16 encumbrance shall not be construed to relieve GMI from obtaining the express written consent of  
17 the City to any future transfer of interest.

18  
19 29. Independent Contractor. GMI, its officers, employees, and agents are independent  
20 contractors performing professional services for the City and are not employees of the City. GMI  
21 and its officers, employees, and agents shall not accrue leave, retirement, insurance, bonding, use  
22 of city vehicles, or any other benefits afforded to the employees of the City of Carlsbad as a result  
23 of this Agreement.

24  
25 30. Workers' Compensation. GMI shall comply with state laws and rules applicable to workers  
26 compensation benefits for its employees. If GMI fails to comply with the Workers' Compensation  
27 Act and applicable rules when required to do so, this agreement may be terminated by the City.

28  
29 31. Workplace Safety. GMI shall comply with all local, state, and federal laws, rules, and  
30 regulations related to the safe completion of all work, including, but not limited to complying with  
31 the standards and requirements of the Manual on Uniform Traffic Control Devices when applicable.  
32 GMI shall maintain an active workplace safety program which includes, but is not limited to safe  
33 work practices, the use of safety gear, and traffic control and vehicle and equipment operational  
34 safety.

35  
36 32. Procurement Code Penalties. The Procurement Code, NMSA 1978, Sections 13-1-28 et  
37 al., imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal  
38 statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

39  
40 33. Campaign Contribution Disclosure. The Procurement Code, NMSA 1978, Sections 13-1-  
41 28, et al., requires certain prospective contractors to submit a fully completed campaign contribution  
42 disclosure statement. GMI states that he has complied with all such applicable requirements.  
43

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

3 If to City:

4 The City of Carlsbad  
5 c/o City Administrator  
6 P.O. Box 1569  
7 Carlsbad, NM 88221-1569

If to GMI:

Mark Walterscheid, President  
400 E. Hamilton  
P.O. Box 5093  
Carlsbad, NM 88221

8 The parties shall notify each other in writing of any change in the above information.

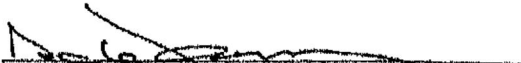
9  
10 35. **New Mexico Law and Venue.** This Agreement shall be construed in accordance with New  
11 Mexico law. The parties agree that, in the event any legal action arising out of this Agreement is  
12 permitted to be brought other than in arbitration, such action shall be brought in the District Court  
13 of Eddy County, New Mexico for the Fifth Judicial District. The parties expressly consent to both  
14 in personam and subject matter jurisdiction of the Eddy County District Court and agree that venue  
15 shall properly lie in the Eddy County, New Mexico District Court.

16  
17 36. **Arbitration.** Should any dispute arise between the parties in connection with the Agreement  
18 and if such dispute cannot be resolved by discussion between the parties, the parties agree to submit  
19 the unresolved dispute to binding arbitration in lieu of litigation. The parties expressly consent to  
20 holding all arbitration proceedings in Eddy County, New Mexico.

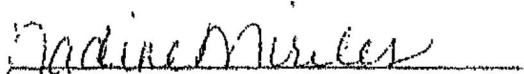
21  
22 37. **Captions.** The captions of any articles, paragraphs, or sections hereof are made for  
23 convenience only and shall not control or affect the meaning or construction of any of the provisions  
24 thereof.

25  
26 38. **Exhibits.** Any instrument or document made and attached to this Agreement shall constitute  
27 a part hereof as though set forth in full in the body of this Agreement, whether made a part hereof  
28 by reference or whether made a part hereof by attachment.

29  
30  
31 CITY OF CARLSBAD:

32  
33  
34  
35   
36 DALE JANWAY, MAYOR

37  
38 ATTEST:

39  
40   
41 CITY CLERK  
42  
43



## **EXHIBIT A**

### **Properties to be Maintained**

1.     **Artesia Highway Entrance**  
Artesia Highway (285) from the intersection of Pierce and Camp to the City Limit Sign including trimming and cleaning concrete medians and sidewalks.
  
2.     **North Canal Street**  
North Canal St. (285) from "Midtown Y" to Pierce Street ending at the Alameda cross street including medians, fenced or landscaped areas and along City sidewalks on both sides of Canal Street and the landscaped area at the "North Y" on North Canal near Tate Branch Dodge.
  
3.     **Canyon Street Landscape**  
Canyon Street bounded by South Canal and Stevens, including planters mid-block on Mermod between Canal and Canyon.
  
4.     **Greene Street (Hobbs Highway) to Muscatel Drive**  
Hobbs Highway (Greene Street) from Canyon to Muscatel Drive including medians and both sides.
  
5.     **Hobbs Highway Entrance**  
Extended Hobbs Highway from Muscatel Ave to Ridgecrest Dr. including the medians and both sides from right-of-way to right-of-way. Area to include rough mowing, trimming, and trash removal.
  
6.     **"Midtown Y"**  
Medians at the intersection of Canyon and South Canal
  
7.     **"South Y"**  
Medians at intersection of US 62/180 and NM 285
  
8.     **National Parks Highway**  
National Parks Highway from its intersection with Terminal Drive (Airport Entrance) to its intersection with Derrick Road including both sides of the highway from right-of-way to right-of-way and including the tree line on the west side of the highway. Area to include rough mowing, trimming, and trash removal.
  
9.     **Airport Industrial Park**  
National Parks Highway bounded by Commerce Drive and Terminal Drive including the entrance areas and landscaping mounds.

## EXHIBIT B

### Grounds Keeping and Maintenance Services

Complete grounds keeping and maintenance services shall include, but not be limited to the following:

1. **Implement Programs.** GMI shall maintain all Properties as specified in the approved Programs.

A. **Weeds.** All weeds shall be controlled as specified in the approved Weed Control Program.

B. **Fertilization.** All turf and other vegetation shall be fertilized as specified in the approved Fertilizer Application and Management Program.

C. **Water.** All vegetation shall be properly irrigated as specified in the approved Water Management Program.

D. **Plants.** All plants shall be supplemented and replaced as specified in the approved Plant Supplement and Replacement Program.

2. **Tree Maintenance.** Tree pruning and trimming shall be performed as necessary to insure a well manicured, well tended appearance, to promote proper growth and remove dead, diseased, unsightly or hazardous limbs and branches, and to provide adequate sight distance for vehicle safety. All new trees shall be staked to allow movement (at least 6") in the wind. Stakes shall be removed as soon as trees are deemed established in the soil or by one year of planting, whichever comes first. Trees shall be deep watered to encourage deep roots and discourage surface root damages. Deep watering is especially important during particularly warm weather. Potential damage caused by tree roots will be identified on site walks. Where appropriate, root pruning shall be performance to avoid costly structural damages and tripping liabilities. Trees causing consistent physical damage or nuisance can be recommended for removal. GMI shall report/recommend such hazards to the City.

3. **Shrub Maintenance.** Shrub pruning and trimming shall be performed as necessary to insure a well manicured, well tended appearance, to promote proper growth and remove dead, diseased, unsightly or hazardous branches and vines, and to provide proper sight distance for vehicle safety. Pruning shall be done on an as needed basis only. The intent of this style of pruning is to maintain the natural plant appearance. Shrubs are intended to fill planting spaces as much as possible. Shrubs on slopes are not to be pruned or shaped, but are to be allowed to spread naturally. Shearing back of shrub stems and branches is not encouraged unless the plant poses a safety hazard, or unless directed by the City. Shrub fertilization shall be performed using slow release, complete organic based products in April and October, or as deemed necessary to encourage optimal growth and plant health.

4. **Groundcover Maintenance.** Groundcover shall be maintained to fill large areas, provide significant color and present a lush appearance. All groundcover areas shall be uniformly irrigated to insure consistent growth and plant coverage in conformance with approved Water Management Plan. Bare areas may require hand tilling of soil, addition of amendment and replanting to create plant uniformity.

5. **Trash Removal.** The Properties shall be kept at all times free of unsightly materials. All litter, debris, trash, and waste shall be removed from the Properties. In those cases where mowing is required, the litter, debris, and trash shall be removed prior to mowing to keep from shredding it. A weekly trash removal schedule shall be submitted to the City for approval. The schedule shall include at a minimum of three days per week of trash removal from all the properties described in Exhibit "A", above.

6. **Safety.** GMI shall comply with all New Mexico Department of Transportation ("NMDOT") safety requirements for work in an NMDOT right-of-way. Such requirements include, but are not limited to, properly rated safety vests, personal protection equipment, and signs.

**City of Carlsbad  
Personnel Department**

**Action Report  
Month of June 2023**



City of Carlsbad  
 Personnel Department Action Report  
 Month of June 2023

<b>EMPLOYEE REPORT</b>	Beginning of Month	New Hires	Terminations	Transfers In	Transfers Out	End of Month
Full-Time Employees	428	8	10	1	0	427
Part-Time/Temp Employees	70	12	2	0	1	79
Total Employees	498	20	12	1	1	506
Administrative	18	1	0	0	0	19
Judicial	8	0	1	0	0	7
Finance	18	0	0	0	0	18
Police	102	3	1	0	0	104
Fire	65	0	1	0	0	64
Community Development	110	13	1	0	0	122
Planning & Regulation	14	0	1	0	0	13
Utilities	74	2	3	0	0	73
Transportation & Facilities	89	1	4	0	0	86
<b>TOTAL</b>	498	20	12	0	0	506

<b>WEEKLY INDEMNITY</b>	Beginning of Month	New Claims	Released To Work	Terminated	End of Month
Employees on WI	3	1	2	0	3

<b>UNEMPLOYMENT CLAIMS</b>	Claims Received	Claims Returned	Claims Denied	Claims Approved	Claims Pending	Claims Appealed
Current Month	0	0	0	0	0	0

<b>DRUG TESTS</b>	<b>Number Given</b>
Pre-employment	11
Probationary	0
Post Accident	27
Random	0
Periodic	0
Probable Cause	0

<b>PHYSICAL EXAMINATIONS</b>	<b>Number Given</b>
Pre-employment	11
Return to Work Evaluation	0
Functional Capacity Evaluation	0

<b>TESTING</b>	<b>Number Given</b>
None	

<b>VACANCIES BID</b>	<b>Department</b>
Account Clerk 1, part-time	Finance
Executive Secretary	Waste Water
Maintenance Superintendent	Garage
Shop Foreman	Garage

<b>VACANCIES ADVERTISED</b>	<b>Applications Received</b>
Electrical Inspector	Pending
Electrician	Pending
Firefighter/EMT	Pending
Heavy Equipment Operator	Pending
Museum Attendant	Pending
Patrolman	Pending
Seasonal Recreation Attendant	Pending
Transit Driver, on-call	Pending
Vactor Operator	Pending

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 07/11/2023

DEPARTMENT: Municipal Services	BY: Angie Barrios- Testa, Director <i>AK 4/28/2023</i>	DATE: 06/27/2023
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**SUBJECT: Authorize the Submission of a Grant Application to the American Library Association: Americans and the Holocaust a traveling exhibition for Libraries**

**BACKGROUND, ANALYSIS AND IMPACT:** (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The American Library Association and the United States Holocaust Memorial Museum are seeking sites to host *Americans and the Holocaust*, a traveling exhibition that examines the motives, pressures, and fears that shaped Americans' responses to Nazism, war, and genocide in Europe during the 1930s and 1940s. The exhibition will travel to 50 sites, and public and academic libraries are invited to apply. Carlsbad Public Library would like to apply to host this exhibit. The following are benefits for the library host sites:

Fifty public and academic libraries will be selected to host the exhibition, starting June 2024 through July 2026. Each host will receive the following:

- The traveling exhibition for a five- to six-week loan period (shipping costs are paid by ALA and the USHMM).
- A \$3,000 allowance for exhibition-related programming. Libraries are encouraged to use a portion of the funds to transport local students to see the exhibit or attend a program if needed.
- Access to an online Site Support Notebook, with shipping and installation instructions, suggestions for programming, and a full publicity kit, including sample promotional materials and templates for press and social media outreach.
- Logistical and programming support from the USHMM and the ALA Public Programs Office throughout the tour, including the two-day workshop, at least two virtual meetings before hosting the exhibition, and participating in an online Connect discussion list for sites.
- A stipend for the library project director to attend an orientation workshop at the US Holocaust Memorial Museum in May 2024 in Washington, DC.
- Assistance with the repair of reasonable wear and tear to the exhibition.

If approved, the application's deadline is October 14, 2023. There is no matching requirement.

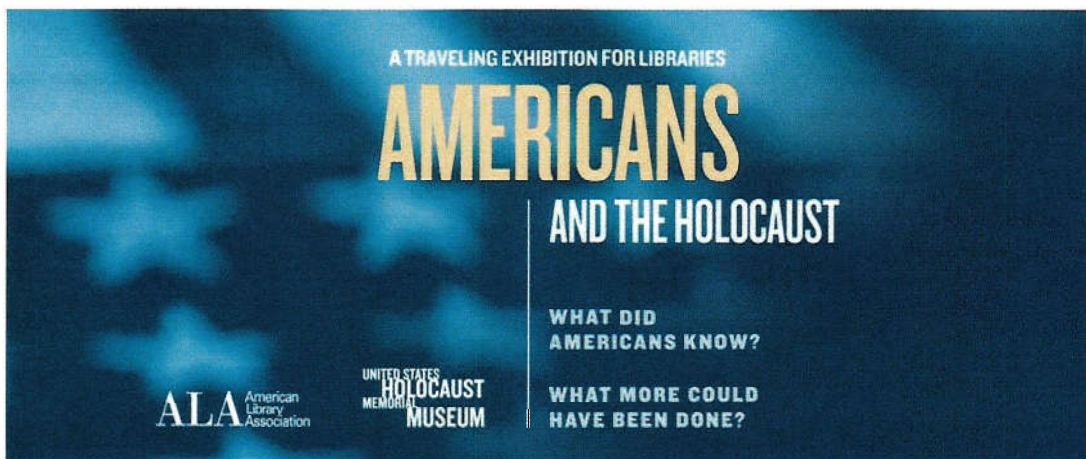
**DEPARTMENT RECOMMENDATION:** City Council authorizes the submission of the application and designates the Mayor or the Mayor's designee to sign the application and any related documents.

**BOARD/COMMISSION/COMMITTEE ACTION:**

- |  |  |   |                                      |
|--|--|---|--------------------------------------|
| <input type="checkbox"/> P & Z         | <input type="checkbox"/> Lodgers Tax Board | <input type="checkbox"/> Riverwalk Rec Center Board | <input type="checkbox"/> APPROVED    |
| <input type="checkbox"/> Museum Board  | <input type="checkbox"/> San Jose Board    | <input type="checkbox"/> Water Board                |                                      |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> N. Mesa Board     | <input type="checkbox"/> Beautification Committee   | <input type="checkbox"/> DISAPPROVED |

**Reviewed by:**  
**City Administrator:** /s/John Lowe **Date:** 07/06/2023

# Americans and the Holocaust: Traveling Exhibition Application Guidelines



**APPLICATION RECEIPT DEADLINE FOR 2024-2026 TOUR:** 11:59pm on October 14, 2023

**Date posted:** March 8, 2023

Public and academic libraries will be invited to apply to be part of 2024 - 2026 Americans and the Holocaust tour starting in June 2023. A link to apply and application instructions can be found [here](#).

To be notified when applications open, [sign up for ALA's Programming Librarian newsletter](#). Non-library organizations interested in being part of the tour should identify a public or academic library to partner with on an application.

**Questions?** Contact the American Library Association (ALA) Public Programs Office at 1-800-545-2433, ext. 5045, or [publicprograms@ala.org](mailto:publicprograms@ala.org).

## I. Project Overview

With support from the [United States Holocaust Memorial Museum \(USHMM\)](#), the [American Library Association Public Programs Office \(ALA PPO\)](#) is seeking sites to host *Americans and the Holocaust*, a traveling exhibition that examines the motives, pressures, and fears that shaped Americans' responses to Nazism, war, and genocide in Europe during the 1930s and 1940s. The exhibition will travel to 50 sites, and public and academic libraries are invited to apply.

The 1,100-square-foot traveling exhibition is based on the exhibition that opened in April 2018 at the USHMM in Washington, DC. *Americans and the Holocaust* examines various aspects of American society: the government, the military, refugee aid organizations, the media, and the general public. It aims, like all of the USHMM's exhibitions, to motivate audiences to think

critically about the history as individual citizens, as a country, and as members of a global community.

*Americans and the Holocaust* traveling exhibition toured libraries across the United States October 2021 to January 2024, and it is extending its tour to another 50 libraries between June 2024 to July 2026. Selected libraries will host the exhibition for five to six weeks and will also be required to implement a minimum of four public programs to accompany the exhibition during the display period. At least one of the programs must be for high school or university students. The exhibition requires approximately 1,100 square feet of space for display. Each site will receive a programming allowance of \$3,000 to support public programs related to the exhibition.

## **The *Americans and the Holocaust* Exhibition**

### **Exhibition Content**

The *Americans and the Holocaust* traveling exhibition addresses many important themes in American history, including Americans' responses to refugees, war, and genocide. It also provides a comprehensive look at what shaped American attitudes and actions towards the escalating persecution of Europe's Jews. The exhibition explores the following questions:

- What did Americans know?
- Did Americans help Jewish refugees?
- Why did Americans go to war?
- How did Americans respond to the Holocaust?

Drawing on a remarkable collection of primary sources from the 1930s and '40s, *Americans and the Holocaust* dispels the myth that Americans knew little or were entirely indifferent to the threat of Nazism and the plight of Europe's Jews. The exhibition includes images of historic artifacts, documents, photographs, and period film footage. Focusing on the stories of individuals and groups of Americans who took action in response to Nazism, *Americans and the Holocaust* challenges visitors to consider the responsibilities and obstacles faced by individuals—from President Franklin Delano Roosevelt to ordinary Americans—and what they did and did not do to respond to Nazism and the persecution and mass murder of Europe's Jews.

Although this exhibition focuses on Americans' lives in the 1930s and the 1940s, the resonances for our culture today are apparent throughout. The USHMM and ALA PPO hope to challenge people to not only ask "*what would I have done?*" but also, "*what will I do?*"

### **Physical Details**

- The exhibition requires 1,100 (max) square feet of floor space for optimal display. The panels will be capable of multiple configurations to adapt to a variety of floor plans. See some [sample configurations and required square footage](#) for reference.
- The exhibition is composed of 18 exhibition panels (9 double-sided, freestanding units), 4 media programs, and 1 touchscreen interactive. One panel unit will be [curved](#) (2.7' D x

10' W x 7.9' H), and the remaining 8 panel units will be flat (1.1' D x 9.8' W x 7.9' H). The exhibition does not include original artifacts or display cases.

- Each panel side is composed of 3 vertically-oriented graphics. The graphics hang from steel hubs and lock to the seams via vertical magnetic strips. The exhibition is accompanied by a thorough setup guide and instructional videos.
- Host sites are asked to provide extension cords, power strips, Windex wipes, gaffers tape, and electrical floor cord covers beyond those supplied, as needed. The exhibition does not require any additional lighting.
- The exhibition will travel in 10 rolled containers (42" x 26" x 22", approx. 130 lbs each); 4 cases for media stands (49.5" x 20.25" x 13.5", 91 lbs each); and 1 case for the monitors and (4) tablets (54" x 18.5" x 35", 95 lbs). All containers are expected to fit within a 9' x 12' storage space.
- The exhibition will require approximately one day for two people to set up. More helpers are recommended.
- While the exhibition panels are capable of being arranged in multiple configurations in order to accommodate different library floor plans, the entire exhibition must be displayed at the same host site for the duration of the host period. Exhibition panels cannot be shared among different library branches, partner organizations, etc. Visitors must be able to view and access all exhibition panels. Host sites are expected to comply with ADA standards.
- The exhibition includes 4 films and 1 touchscreen interactive. One film is displayed on a 32" monitor mounted to the introductory panel.
- The remaining 3 films and touchscreen interactive are displayed on Windows Surface Pro 6 tablets locked within freestanding kiosks. Each tablet measures 11.5" x 7.9" x 0.33" and each freestanding kiosk is approximately 50 lbs. and ADA compliant.
- The media programs are:
  - 
  - A brief, 90-second film (silent) showing the context of the United States during the 1920s and 1930s (especially isolationism in the aftermath of World War I; prejudice, antisemitism, and xenophobia in the US; and economic insecurity during the Great Depression) that informed and shaped Americans' responses to Nazism. It is displayed on a 32" monitor mounted to the introductory panel and plays on a loop.. (1:32)
  - A touchscreen interactive map (silent) showing visitors that American newspapers reported on many stories related to the Nazis' persecution and murder of Jews in Europe. The map includes newspaper coverage in each state of the boycott of Jewish businesses (April 1933), the Kristallnacht pogrom (Nov. 1938), and public reporting on mass murder (Nov. 1942). This interactive is displayed on a tablet mounted to a freestanding kiosk.
  - A short, animated film (audio) showing visitors that many ships carrying refugees crossed the Atlantic Ocean between March 1938 and October 1941 and places the story of the refugee ship MS St. Louis into historical context. This film is displayed on a tablet mounted to a freestanding kiosk with an attached Soundstik. (4:28)
  - A mini-documentary (sound) depicting Franklin Delano Roosevelt's efforts to move the United States toward preparedness for World War II, beginning when

- Europe went to war on September 1, 1939, and concluding in December 1941, with the Japanese attack on Pearl Harbor. This film is displayed on a tablet mounted to a freestanding kiosk with an attached Soundstik. (5:04)
    - An animated map (silent) overlaying the movement of Allied troops during World War II and the locations and opening / closing dates of six major Nazi killing centers. This film is displayed on a tablet mounted to a freestanding kiosk. (4:25)
  - The films with audio have closed captioning and utilize Soundstik listening devices. The introductory film plays on a loop, while the other films are initiated by visitors.
  - The exhibition text has been translated into Spanish and is available as an accompanying PDF.

## Orientation Workshop

There will be an in-person orientation workshop, facilitated by ALA and museum project staff, held at the US Holocaust Memorial Museum in Washington, DC in Spring 2024 (exact dates TBD). The project director from each exhibiting library must attend this two-day training. Attendees will receive a stipend to cover the costs of travel to and from Washington, DC, and two nights in a hotel. Meals and snacks at the workshop will be provided.

At this training, librarians will tour the onsite version of *Americans and the Holocaust*, learning about the exhibition content and themes. They will also learn about how to set up and take down the traveling exhibition and about resources to support their programming needs. Lastly, they will learn about the required program requirements and reporting.

## Support Materials

- A collection of online [Site Support Resources](#) includes:
  - Critical ALA contact information, shipping and receiving information, insurance requirements and other logistical information
  - Instructions on how to properly set up and take down the exhibition
  - Parameters on programming requirements, allowable uses for the programming allowance, suggested book and film lists, scripts for guided tours, teachers' guide, programming ideas and other helpful resources
  - Reporting requirements and instructions
- Professionally designed graphics – including printable promotional materials, signage and web and social media graphics – that will be customized for your library to include your logo, tour dates, web URL and other information. (NOTE: To ensure branding consistency across the tour and to properly credit national tour sponsors, host sites are required to use only the graphics provided. Host sites that have graphic needs not met by the existing materials may work with ALA's graphic designer to create new materials that meet ALA and USHMM approval.)
- Communications support materials, including a template press release, social media posts, public service announcement and media alert, that can be edited and shared by host sites to raise local awareness
- An online discussion group in [ALA Connect](#) to foster conversation, support and an exchange of ideas between host sites

## Requirements for Host Sites

All libraries chosen to host *Americans and the Holocaust* will be required to do the following:

- Sign a contract with the American Library Association agreeing to programming, publicity, reporting and other project requirements.
- Present a minimum of four public programs, events or activities related to the themes explored in the exhibition, which can include programs with scholars, community or civic organizations, family programs and other public events.
  - All selected sites will be required to host at least one program for high school or university students as part of their minimum of four public programs. Program plans may include (but are not limited to) an expert presentation, author talk or lecture series, Survivor or 2nd generation speaker, film screening with a Q & A, book discussion, guided tours/field trips, teacher workshop, or special course that integrates the exhibition content into the curriculum.
  - Programs should explore topics related to *Americans and the Holocaust*, such as the historical debate of whether or not the United States should enter World War II, how popular culture shaped Americans' understanding of World War II, the emergence of public opinion polling, and the stories of Americans who tried to rescue victims of Nazism, and how women's roles changed during this era; or a community conversation on exhibition themes — such as what was reported on the Holocaust in the region — and their relevance to your community today.
  - All programs planned in conjunction with the exhibition must be respectful of and accurately represent the history of the Holocaust, the memorial nature of the Museum's work, and the Holocaust survivor community. Programs should uphold the Museum's [Guidelines for Teaching about the Holocaust](#).
  - Libraries should avoid developing programs that are political in nature, which can be distracting from the importance of this history and limit the opportunity to reach visitors from a variety of backgrounds and political affiliations.
- Collaborate with local high schools and/or universities to engage students with the exhibition and/or its related programming.
- Market the exhibition and programs in the community.
- Allow the public to view the exhibition and attend programs free of charge.
- Provide four reports throughout the project period: a pre-program form; a pre and post exhibition condition form; and a final programming report to the exhibition sponsors. ALA will provide the necessary forms and will send periodic reporting deadline reminders.
- Appoint one staff member as the Project Director of the exhibition. The Project Director is responsible for attending the orientation workshop in April 2024 at the USHMM in Washington, DC, attending virtual programming meetings with ALA and Museum staff, overseeing programming and marketing of the exhibition, assuring that the exhibition is set up, displayed and taken down according to the project guidelines, and submitting the required reports by the deadlines. Due to the expectations of hosting the exhibition, Project Directors are encouraged to identify additional staff to support the project.
- Agree to all publicity requirements, including use of designated exhibition credits and/or logos on all local publicity materials, both print and online.



- Obtain approval from USHMM and ALA prior to accepting local sponsorship in support of exhibition-related programming and strictly adhere to local sponsor recognition requirements. Note that, to ensure proper recognition of national tour sponsors, local sponsors may support specific exhibition programs, but cannot be presented as funders of the exhibition.
- Demonstrate that the library has sufficient space to display the exhibition (approximately 1,100 square feet in one area of the library, plus space to store the shipping crates), and can provide security for the exhibition (by monitoring the exhibition at least every half-hour during peak times and every hour at less busy times).
- Provide sufficient electrical outlets nearby to power the exhibition components requiring electricity.
- Be responsible for the condition of the exhibition. Sites will be held responsible for damage to or loss of the exhibition when it is under their control. Minor repairs will be carried out and paid for by the ALA.
- Add the exhibition to its institutional insurance coverage or purchase an insurance rider. The value of the exhibition is approximately \$75,000. The exhibition should be insured from ten days before the first day of the exhibition period to ten days after the closing date.

## II. Award Information

Fifty public and academic libraries will be selected to host the exhibition, starting June 2024 through July 2026. Each host will receive the following:

- The traveling exhibition for a five- to six-week loan period (shipping costs are paid by ALA and the USHMM). Each library's specific host term will be coordinated by the ALA in conjunction with the libraries that will be receiving the exhibition.
- A \$3,000 allowance for exhibition-related programming. Libraries are encouraged to use a portion of the funds to transport local students to see the exhibit or attend a program, if needed.
- Access to an online Site Support Notebook, with shipping and installation instructions, suggestions for programming and a full publicity kit, including sample promotional materials and templates for press and social media outreach.
- Logistical and programming support from the USHMM and the ALA Public Programs Office throughout the tour, including the two-day workshop, at least two virtual meetings prior to hosting the exhibition, and participation in an online Connect discussion list for sites.
- A stipend for the library project director to attend an orientation workshop at the US Holocaust Memorial Museum in May 2024 in Washington, DC.
- Assistance with the repair of reasonable wear and tear to the exhibition.

## III. Eligibility

*Americans and the Holocaust* is available to public and academic libraries in the United States. Individuals and federal entities are not eligible to apply.

## IV. Application and Submission Information

Public and academic libraries will be invited to apply to be part of 2024 - 2026 *Americans and the Holocaust* tour starting in June 2023. A link to apply and application instructions can be found [here](#).

To be notified when applications open, [sign up for ALA's Programming Librarian newsletter](#). Non-library organizations interested in being part of the tour should identify a public or academic library to partner with on an application.

If you have questions in the meantime, you may contact the ALA Public Programs Office at [publicprograms@ala.org](mailto:publicprograms@ala.org).

## V. Application Review

Each application will be assessed by a review panel of librarians and staff of ALA and the US Holocaust Memorial Museum. Applications will be evaluated based on the following criteria:

- Clarity and completeness of the application. Has the applicant supplied all required information, including all sections of the proposal narrative?
- The quality of proposed programming to accompany the exhibition. The proposed programming should focus on the themes explored in the exhibition, follow the Museum's [Guidelines for Teaching about the Holocaust](#), as well as the requirements listed above
- The availability of appropriate exhibition space and staff support.
- The involvement of appropriate local programming partners (you may consider contacting a [Holocaust Education Center](#) in your state or region to support your programming)
- The quality of the marketing and outreach plans, and the ability to reach high-school and/or college students
- The community's interest in and need for quality Holocaust educational resources

The panel may take geographic and demographic distribution into consideration when selecting exhibition sites.

Libraries demonstrating a need for Holocaust education in the community, strong local partnerships and programming plans that fit the programming guidelines and reach target audiences will be considered favorably.

## VI. Exhibition Sponsors

This traveling exhibition is made possible by the generous support of lead sponsor Jeannie & Jonathan Lavine. Additional major funding was provided by the Bildners—Joan & Allen z"l, Elisa Spungen & Rob, Nancy & Jim; and Jane and Daniel Och.

Substantial support was also provided by:

- Akin Gump Strauss Hauer & Feld LLP
- Arnold & Porter Kaye Scholer LLP
- Ruth Miriam Bernstein
- Joyce and Irving Goldman Family Foundation
- In Memory of Simon Konover
- Philip and Cheryl Milstein Family
  
- Benjamin and Seema Pulier Charitable Foundation
- David and Fela Shapell Family Foundation
- Deborah Simon
- Laurie and Sy Sternberg
- Gary and Cathy Jacob

The Museum's exhibitions are also supported by the Lester Robbins and Sheila Johnson Robbins Traveling and Special Exhibitions Fund, established in 1990.

## **VII. Contact Us**

If you have questions about the exhibition or the application, contact:

American Library Association Public Programs Office

1-800-545-2433, ext. 5045

[publicprograms@ala.org](mailto:publicprograms@ala.org)

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 7/11/2023

DEPARTMENT: Municipal Services	BY: Angie Barrios-Testa, Director <i>ABT 6/28/2023</i>	DATE: 6/28/2023
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**SUBJECT: Accept Award for a T-Mobile Hometown Grant for the Carlsbad Public Library’s Digital Archive and Meeting Space**

**BACKGROUND, ANALYSIS AND IMPACT:** (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The City submitted a grant application to T-Mobile under their T-Mobile Hometown Grant Program at the end of March of 2023. The project has been on the City’s ICIP for several years. The Carlsbad Public Library has been working on the digital archive project and this grant opportunity will allow the City to renovate the Bob Scholl space into an enclosed meeting space where the archives can be viewed. Once completed, the Bob Scholl meeting room will cater to many community needs and events like telehealth, job training, a place for researchers, a meeting space for youth programs, and many more uses. The project includes enclosing the space with walls and a door, technology upgrades and equipment, lighting, and furnishings. The City of Carlsbad is among 25 communities that received this prestigious award in T-Mobile’s Quarter 3 competitive grant program process.

The award is in the amount of \$40,000 with a stipend in the amount of \$300 to reimburse the City for the planned marketing event that was held on June 29, 2023. This agreement was not brought forth sooner as T-Mobile requires a planned public announcement and the information was not to be shared until after the June 27, 2023, announcement by the company. With City Council approval and the approved T-Mobile Hometown Grant Program Marketing Agreement in place, the City can begin working on the project. The deadline to spend the funds is June 30, 2024. The City is in the process of adding the funding to the final FY24 budget.

**DEPARTMENT RECOMMENDATION:** City Council accept the T-Mobile Hometown Grant award, and to designate the Mayor to sign the Marketing Agreement and any associated documents

**BOARD/COMMISSION/COMMITTEE ACTION:**

- |  |  |   |                                      |
|--|--|---|--------------------------------------|
| <input type="checkbox"/> P & Z         | <input type="checkbox"/> Lodgers Tax Board | <input type="checkbox"/> Riverwalk Rec Center Board | <input type="checkbox"/> APPROVED    |
| <input type="checkbox"/> Museum Board  | <input type="checkbox"/> San Jose Board    | <input type="checkbox"/> Water Board                | <input type="checkbox"/> DISAPPROVED |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> N. Mesa Board     | <input type="checkbox"/> Beautification Committee   |                                      |

**Reviewed by:**  
**City Administrator:** /s/John Lowe **Date:** 07/06/2023



## T-MOBILE HOMETOWN GRANT PROGRAM MARKETING AGREEMENT

This Hometown Grant Program Marketing Agreement, along with the Standard Terms and Conditions attached as Exhibit A (collectively, “**Agreement**”), effective as of the date of full execution (“**Effective Date**”), sets forth the terms and conditions between City of Carlsbad (“**Hometown**”) and T-Mobile USA, Inc. (“**T-Mobile**”), regarding Hometown’s status as a recipient in T-Mobile’s Hometown Grant Program (“**Program**”) and the parties’ mutual rights and duties in connection with the Program.

1. **Program Duration:** 6/27/2023 (“**Start Date**”) through 6/30/2024 (“**End Date**”)
2. **Project:** Carlsbad Public Library Digital & Community Placemaking Space - This project builds on recent digital archival projects and gives access to community members who do not have internet or technology resources. The space will also cater to the community’s needs as an event space for a variety of topics, such as digital literacy, telehealth, and job training, and will provide resources for researchers, toolkits for entrepreneurs, and meeting space for youth. Funding will provide technology, lighting and furnishings as outlined in Hometown’s budget. Upon completion, Hometown will supply a mutually agreed upon attribution element marking the T-Mobile contribution to the Project.
3. **Hometown website and social media accounts (“Hometown Digital Channels”):**
  - City of Carlsbad Webpage: <https://cityofcarlsbadnm.com/>
  - City of Carlsbad Main Facebook Page: <https://www.facebook.com/CityofCarlsbadGov>
  - Carlsbad Public Library Social Media Pages:  
<https://www.facebook.com/profile.php?id=100064707305203>
  - Instagram: <https://instagram.com/cpl188220?igshid=NTc4MTIwNjQ2YQ==>
- 4 **Program Details:**
  - a. T-Mobile will prepare a national news release regarding Hometown’s status as a recipient in the Program, and Hometown will repost to the Hometown Digital Channels.
  - b. T-Mobile will post social media content about the Program during the Program’s duration, and Hometown will repost that content on the Hometown Digital Channels using assets and agreed upon language provided by T-Mobile Public Relations team.
  - c. T-Mobile will supply an oversized check for publicity photos, which photos Hometown shall share on the Hometown Digital Channels. T-Mobile and Hometown will agree upon a date and location for hosting this ceremony. Food and beverages will be supplied by Hometown using funds below.
  - d. T-Mobile will supply window clings regarding the Program for display in city and business entities in Hometown during the Program.
  - e. Hometown will use the Sponsorship Fee to pursue the community project described above (“**Project**”) and, at the mid-way point and end of the Program, Hometown leadership will provide T-Mobile with Project updates in response to a Survey issued by T-Mobile, including photos and publicity quotes, for T-Mobile’s use on T-Mobile’s website, PR channels, and social channels and further reposting on the Hometown Digital Channels.
  - f. For any in-person events in connection with Hometown’s involvement in the Program, Hometown will follow, and ensure all Hometown staff and attendees of such event follow, all currently applicable CDC, State, and local guidelines as they pertain to COVID-19 and all safety guidelines.
- 5 **Sponsorship Fee:** T-Mobile will pay \$40,300 to Hometown for the above outlined Rights/Benefits within 30 days following full execution of this Agreement. Included in this payment, T-Mobile will provide \$300 for town to purchase food and beverage for agreed upon check presentation.



**Accepted and Agreed to by:**

**T-Mobile USA, Inc.**

**City of Carlsbad**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

<b>Notice Addresses:</b>	
<p>If to T-Mobile:  T-Mobile USA, Inc.  12920 SE 38<sup>th</sup> Street  Bellevue, WA 98006  Tel: 501-517-1470  Email: michele.shaw@t-mobile.com  Attn: Michele Shaw</p> <p>With a copy of legal notices:  Attn: General Counsel</p>	<p>If to Hometown:  City of Carlsbad  101 N. Halagueno St.  Carlsbad, NM 88220  Tel: 575-887-1191  Email: mayor.office@cityofcarlsbadnm.com  Attn: Dale W. Janway, Mayor</p>



## EXHIBIT A


In addition to the foregoing, the parties agree to the following Standard Terms and Conditions:

1. Representations and Warranties: The parties have the full right and legal authority to enter into and fully perform this Agreement in accordance with its terms. Hometown is solely responsible for the operation of the Project, including the safety and security of any visitors to or participants in the Project. Hometown represents and warrants that the Project, including the operation thereof, complies with all applicable laws and regulations. Hometown further represents and warrants that it is responsible for securing any required license or permits to conduct the Project, and that any materials and/or content it creates pursuant to this Agreement will not infringe on any third-party rights.
2. Use of Trademarks: T-Mobile grants to Hometown a limited, personal, non-exclusive, non-assignable, revocable, non-sublicensable, royalty-free license or sublicense (as applicable) to use and reproduce the T-Mobile trademarks and logos provided by T-Mobile (the “**T-Mobile Marks**”) solely in connection with Hometown’s performance of its obligations hereunder during the term of the Program and such use is subject to T-Mobile’s Marks Rules available at <https://www.t-mobile.com/responsibility/legal/trademarks>. Hometown hereby grants T-Mobile the right to use Hometown’s trademarks, logos, and trade names (as provided by Hometown) as necessary for T-Mobile to exercise its rights as set forth herein. Each party retains complete ownership of, all trademarks, logos, designs, copyrights, trade names, and all other intellectual property rights which it owns or has rights to and which are used in any way in materials in connection with this Agreement.
3. Media: Any and all media advertising or publicity content produced by Hometown that refers to T-Mobile or includes any T-Mobile Marks or mentions T-Mobile (“**Media**”) and is intended to run on any public platform or be shown at any event (including, but not limited to, tv, radio, print, out of home, web, or social media, whether paid or unpaid), shall require the prior written approval of the content by T-Mobile. If T-Mobile provides Media to Hometown, Media shall not be altered by Hometown, or any other third-party, without the express, prior written consent of T-Mobile.
4. Intentionally omitted.
5. Termination: Either party may terminate this Agreement in the event of a material breach by the other party. In addition, T-Mobile may terminate this Agreement for any reason with five days’ notice. On any termination due to Hometown’s breach, Hometown will refund the pro rata portion of any unearned prepaid Fees or T-Mobile will owe the pro rata portion of any Fees earned prior to termination.
6. Force Majeure: If because of an act of God, inevitable accident, fire, lockout, strike or other labor dispute, riot or civil commotion, act of terrorism or war, act of government or government instrumentality, or other cause beyond the reasonable control of a party (“Force Majeure Event”), either party is unable to perform any or all of its obligations hereunder, then such nonperformance will not be a breach of this Agreement. If due to a Force Majeure Event, T-Mobile does not receive all the benefits included in this Agreement, Hometown will provide T-Mobile with a reasonably equivalent make good or a pro-rata refund of the Fee paid, to be chosen at T-Mobile’s sole discretion.
7. Miscellaneous: This Agreement constitutes the whole and entire Agreement between the parties with respect to the subject matter of this Agreement and it shall not be modified or amended in any respect, except by a written instrument executed by both parties. This Agreement shall be governed by the laws of the State of New Mexico, without regard to conflicts of law provisions. The parties agree that the terms of this Agreement are confidential and shall not be disclosed, except to the respective parties’ advisors or as may be required by legal order or government authorities. All notices required or permitted hereunder shall be in writing and may be emailed, personally delivered, sent by reputable overnight courier or certified mail, return receipt requested, and in each case addressed to the parties using the contact information at the beginning of this Agreement.

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 07/11/2023

DEPARTMENT: Police Department	BY: Shane Skinner, Chief  ASST	DATE: 07/05/2023
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**SUBJECT: Accept Grant Agreement from the New Mexico Department of Finance and Administration for the Carlsbad Police Department to Purchase and Equip Police Vehicles**

**BACKGROUND, ANALYSIS AND IMPACT:** (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

During the 2023, 56<sup>TH</sup> Legislative Session, the City of Carlsbad was allocated \$100,000, to purchase and equip police vehicles for the Carlsbad Police Department. The funding was made available under Senate Bill 192 Special Appropriations. The funding is now being made available through an agreement from the New Mexico Department of Finance Administration (NMDFA) under Appropriation No. 23-ZH9211.

With the acceptance of the enclosed grant agreement, the City agrees to comply with all of the terms and conditions. All funds will be spent in advance by the City of Carlsbad, and NMDFA will reimburse the City for all eligible expenditures. In anticipation of this award, the City has budgeted the funds under Project No. 100937 and is ready to begin the project as soon as the grant agreement is fully executed.

**DEPARTMENT RECOMMENDATION:** If it is the will of the City Council, accept the Junior Bill Appropriation Agreement No. 23-ZH9211 from the NMDFA, and designate the Mayor to sign the enclosed agreement and any related documents.

**BOARD/COMMISSION/COMMITTEE ACTION:**

- |  |  |   |                                      |
|--|--|---|--------------------------------------|
| <input type="checkbox"/> P & Z         | <input type="checkbox"/> Lodgers Tax Board | <input type="checkbox"/> Riverwalk Rec Center Board | <input type="checkbox"/> APPROVED    |
| <input type="checkbox"/> Museum Board  | <input type="checkbox"/> San Jose Board    | <input type="checkbox"/> Water Board                |                                      |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> N. Mesa Board     | <input type="checkbox"/> Beautification Committee   | <input type="checkbox"/> DISAPPROVED |

**Reviewed by:**  
**City Administrator:** /s/John Lowe **Date:** 07/06/2023



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REIMBURSING AGENCY: Department of Finance and Administration  
Business Unit: 341

**APPROPRIATION RECIPIENT:** CITY OF CARLSBAD  
**APPROPRIATION NUMBER:** 23-ZH9211  
**APPROPRIATION AMOUNT:** \$100,000.00  
**REVERSION DATE:** June 30, 2024

**APPROPRIATION LANGUAGE**

ONE HUNDRED THOUSAND (\$100,000.00) to purchase and equip police vehicles for Carlsbad police department. Funds unexpended by June 30, 2024, will be reverted to the State of New Mexico's general fund.

**APPROPRIATION REIMBURSEMENT**

The appropriation funds will be disbursed through a reimbursement process. The Appropriation Recipient will submit to the Reimbursing Agency the Exhibit A: Request for Payment form along with supporting document(s) that evidence the expenses to be reimbursed. The Reimbursing Agency will review these documents to ensure all expenses to be reimbursed reflect the intent and purpose of the appropriation language. All expenditures for which the Appropriation Recipient requests reimbursement must occur prior to the reversion date. The latest date the Appropriation Recipient may submit a Request for Payment is July 15, 2024. With the submission of the final Exhibit A: Request for Payment, the Appropriation Recipient must include a completed Exhibit B: Final Report form in order to receive the final reimbursement.

**CERTIFICATION**

I hereby certify that CITY OF CARLSBAD

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

---

Appropriation Recipient Representative

---

Date

---

Appropriation Recipient CFO

---

Date

**APPROVAL**

In accordance with the authority conferred on the Department of Finance & Administration by the statute appropriating these funds, I hereby approve this certification for appropriation number 23-ZH9211 in the amount of \$100,000.00.

---

Wesley Billingsley  
Director, Local Government Division

---

Date

**STATE OF NEW MEXICO**  
**SB192 Junior Appropriation**  
**Request for Payment Form**  
**Exhibit A**

**I. Grantee Information**

(Make sure information is complete & accurate)

A. Grantee: \_\_\_\_\_  
 B. Address: \_\_\_\_\_  
(Complete Mailing, including Suite, if applicable)  
 \_\_\_\_\_  
City, State, Zip  
 C. Contact Name/Phone #: \_\_\_\_\_  
 D. Grant No: \_\_\_\_\_  
 E. Project Title: \_\_\_\_\_  
 F. Grant Expiration Date: \_\_\_\_\_

**II. Payment Computation**

A. Payment Request No. \_\_\_\_\_  
 B. Grant Amount: \$ 0.00  
 C. AIPP Amount (If Applicable): \$ 0.00  
 D. Funds Requested to Date: \$ 0.00  
 E. Amount Requested this Payment: \$ 0.00  
 F. Reversion Amount (If Applicable): \$ 0.00  
 G. Grant Balance: \$ 0.00  
 H.  GF  
 I.  Final Request for Payment (if Applicable)

III.  Fiscal Year : 2024 (July 1, 2023-June 30, 2024)

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

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

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

\_\_\_\_\_  
**Grantee Representative**

\_\_\_\_\_  
 Printed Name

\_\_\_\_\_  
 Printed Name

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**(State Agency Use Only)**

Vendor Code: \_\_\_\_\_ Fund No.: \_\_\_\_\_ Loc No.: \_\_\_\_\_

I certify that the State Agency financial and vendor file information agree with the above submitted information.

\_\_\_\_\_  
 Division Fiscal Officer Date

\_\_\_\_\_  
 Division Project Manager Date



**CITY OF CARLSBAD**  
**AGENDA BRIEFING MEMORANDUM**

Council Meeting Date: 7/11/2023

<b>DEPARTMENT:</b> Planning & Regulation	<b>BY:</b> Jeff Patterson, Planning Director	<b>DATE:</b> 7/5/2023												
<p><b>SUBJECT:</b> Business License to conduct door to door sales by Southwestern Advantage dba Rene's Books, contact Rene Perzinski, pursuant to Carlsbad Code of Ordinances, Chapter 28, as amended by Ord. 2012-16.</p> <p>Applicant: Southwestern Advantage                  2604 Globe Ct. NE                  Rio Rancho, NM 87114</p>														
<p><b>BACKGROUND, ANALYSIS AND IMPACT:</b> (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)</p> <p>The applicant is requesting a business license to conduct door-to-door solicitations for the sale and distribution of educational books &amp; applications.</p> <p>A background report was provided by the Police Department. The report was inconclusive.</p> <p>Section 28-43(b), as recently amended by Ord. 2012-16, of the Carlsbad Code of Ordinances states that:</p> <p style="padding-left: 40px;">"In making its decision, the city council shall consider, but is not limited to, how such business will affect the health, safety and general welfare of the public; the level of supervision such business may require; the degree to which such business may attract crowds or children or affect vehicle or pedestrian traffic; the accessibility of the proprietors of such business if complaints made to the city are to be investigated; and the possibility of illegal activity transpiring at the proposed place of business."</p> <p>In addition, Section 28-161 et. Seq. specifically applies to solicitations and Section 28-166 states:</p> <p style="padding-left: 40px;"><b>"A city solicitation license may be granted only upon approval by the city council at a regular meeting of the council. The city council shall not consider approval of a solicitation license application unless the chief of police has filed a report on his investigation of the employer or person seeking the license."</b>                  (emphasis added)</p> <p style="text-align: center;">(see attached sections of Chapter 28)</p>														
<p><b>RECOMMENDATION:</b> As the background check into the applicant provided by the Carlsbad Police Department listed no problems or issues reported concerning Southwestern Advantage, the Planning Department would recommend approval of the Business License in compliance with Sec. 28-166 of the Carlsbad Code of Ordinances with the following condition:</p> <ul style="list-style-type: none"> <li>• The door to door solicitors shall not begin solicitation before 9:00 A.M., or continue any solicitation after 7:00 P.M.</li> </ul>														
<p><b>BOARD/COMMISSION/COMMITTEE ACTION:</b> N/A</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;"><input type="checkbox"/> P &amp; Z</td> <td style="width: 25%;"><input type="checkbox"/> Lodgers Tax Board</td> <td style="width: 25%;"><input type="checkbox"/> Cemetery Board</td> <td style="width: 25%; text-align: right;">} <input type="checkbox"/> <b>APPROVED</b></td> </tr> <tr> <td><input type="checkbox"/> Museum Board</td> <td><input type="checkbox"/> San Jose Board</td> <td><input type="checkbox"/> Water Board</td> <td style="text-align: right;">}</td> </tr> <tr> <td><input type="checkbox"/> Library Board</td> <td><input type="checkbox"/> N. Mesa Board</td> <td><input type="checkbox"/> _____ Committee</td> <td style="text-align: right;">} <input type="checkbox"/> <b>DISAPPROVED</b></td> </tr> </table>			<input type="checkbox"/> P & Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	} <input type="checkbox"/> <b>APPROVED</b>	<input type="checkbox"/> Museum Board	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	}	<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> _____ Committee	} <input type="checkbox"/> <b>DISAPPROVED</b>
<input type="checkbox"/> P & Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	} <input type="checkbox"/> <b>APPROVED</b>											
<input type="checkbox"/> Museum Board	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	}											
<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> _____ Committee	} <input type="checkbox"/> <b>DISAPPROVED</b>											

**Reviewed By:**

**City Administrator:** /s/John Lowe

**Date:** 07/06/2023

ATTACHMENT(S): Application and applicable Chapter 28 sections

## **ARTICLE VI. SOLICITATIONS**

### **Sec. 28-161. Definitions.**

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

*Employer* means any person, firm, partnership, association, corporation or other natural or legal entity employing any person in the capacity of agent, servant, employee or representative on an exclusive or nonexclusive basis.

*Insurance agent* means any person appointed by an insurance company licensed to transact business in the state to act as representative in any given locality for the purpose of soliciting and writing insurance bonds, and such other duties in connection with the handling of the business of such agent as may be authorized, and paid for his services either on a commission basis or salary basis, or part by commission and part by salary.

*Insurance solicitor* means any person employed by the licensed agent of an insurance company licensed to transact business in the state to act as representative in any given locality for the purpose of soliciting and writing insurance or bonds, and such other duties in connection with the handling of the business of such agent as may be authorized, and paid for his services either on a commission basis or salary basis, or part by commission and part by salary.

*Solicitation* means the going in or upon or telephoning to one or more private residences in the city by any person not having been requested or invited to do so by the owners or occupants of such private residence or residences for the purpose of soliciting orders for the sale of goods, wares, merchandise, any article or thing of whatsoever description intended for the use or benefit of the recipient thereof, property either real or personal or tangible or intangible, or services; for the purpose of peddling or hawking any of the same; for the purpose of making or requesting appointments or procuring interviews or arranging for demonstrations or explanations preliminary to any actual solicitation of orders; or for the purpose of selling, peddling or hawking of any of the same.

(Code 1974, § 31-1)

### **Sec. 28-162. General prohibition.**

(a) *Violation deemed misdemeanor.* Whoever commits solicitation in violation of this article commits a misdemeanor.

(b) *Elements of prima facie case of solicitation.* Any person or employer who goes in or upon or who telephones any one residence for the purpose of solicitation shall be deemed prima facie to have committed solicitation and a continued practice need not be shown.

(Code 1974, §§ 31-2, 31-3)

### **Sec. 28-163. Exceptions to prohibition.**

The provisions of section 28-162(a) shall not apply to any person if such person for himself, or through his employer, shall have:

(1) Posted a surety bond, with a surety licensed to do business in the state, in the amount of \$1,000.00, to the city and the residents of the city conditioned that the person posting the surety bond shall comply fully with all the provisions of the ordinances of the city and the statutes of the state regulating and concerning the business licensed, and guaranteeing to any resident of the city that all money paid will be accounted for and applied according to the representations of the licensee, and further guaranteeing to any resident of the city doing business with such licensee that the property or services purchased will be delivered or furnished according to representations made by the licensee, and will conform to such representation, whether such representations be oral or in writing, and that the licensee's contract in all respects will be fully performed. Action on such bond may be brought in the name of the city to the use and benefit of the aggrieved person or in the name of the aggrieved person. The term of such bond shall be at least one year.

a. Any employer may purchase such a bond for any person employed by him or representing him in any capacity. If such bond is purchased by an employer of more than one employee, he shall purchase one

such bond in the amount of \$2,000.00, which bond shall cover all persons employed by him or representing him in any capacity.

b. Any person who solicits for one or more employers shall file with the city administrator evidence of a surety bond having been posted by each employer in the manner heretofore described.

(2) Obtained a state school tax license and a city solicitation license as provided in section 28-166.

(3) Obtained a peddler's identification card. Such card shall be issued upon written proof of compliance with this section. The city administrator is authorized to require any such person to be properly identified by fingerprinting and photography; provided, however, that such fingerprinting shall be required only at the time of the filing of the original application for such card; except, that if the city administrator finds that the fingerprints lack sufficient clarity or are otherwise inadequate or unavailable for proper identification of such person, the city administrator may require such person to be fingerprinted again. The card shall be renewed every two years. The application of such card and every renewal thereof shall be made on such form as shall be provided by the city administrator. The service charge for investigation and printing the original card and for each renewal thereof shall be as set from time to time by the council and a schedule of such charges is on file in the office of the city clerk. The city council shall, after notice and hearing, suspend or revoke any such card upon finding such person has been convicted of a felony or misdemeanor involving moral turpitude in this state or any of the United States, or upon finding that such person gave false information on the application; provided, however, that nothing herein contained shall prohibit the city administrator from withholding the issuance of the aforementioned identification card until an adequate police record check is obtained.

(Code 1974, § 31-4)

**Sec. 28-164. Peddler's identification card.**

(a) *Contents.* The peddler's identification card shall contain the following:

(1) The name and address of the bearer.

(2) The name and address of each employer or, if self-employed, the words "self-employed" or, where applicable, both the name and address of each employer and the words "self-employed."

(3) A wallet-size photograph of the bearer, to be furnished by the bearer.

(4) The name and address of each bonding company and the employer bonded, if any.

(5) The legend: "THE CITY OF CARLSBAD DOES NOT ENDORSE OR GUARANTEE THE PRODUCT OR SERVICE OF THE BEARER OR HIS COMPANY."

(b) *Carrying; exhibition.* Any person who solicits in the city shall carry his own peddler's identification card at all times while engaged in solicitation. Such card shall be exhibited to any owner or occupant of any residence or, upon demand, to any police officer of the city.

(Code 1974, §§ 31-5, 31-6)

**Sec. 28-165. Insurance agents and insurance solicitors; real estate brokers and real estate salespersons.**

(a) The provisions of sections 28-162(a), 28-163 and 28-164 shall not apply to any insurance agent or insurance solicitor who has obtained a license from the state superintendent of insurance, nor to any real estate broker or real estate salesperson who has obtained a license from the state real estate commission, and who carries such license on his person and who exhibits such license to any owner or occupant of any residence or, upon demand, exhibits such license to any police officer of the city.

(b) No person shall solicit for the purchase of insurance without a license from the state superintendent of insurance.

(Code 1974, § 31-9; Ord. No. 1035, 1-14-92)

**Sec. 28-166. Grant of license; investigation report prerequisite to consideration.**

A city solicitation license may be granted only upon approval by the city council at a regular meeting of the council. The city council shall not consider approval of a solicitation license application unless the chief of police has filed a report on his investigation of the employer or person seeking the license.

(Code 1974, § 31-10)

**Sec. 28-167. Posted property.**

Except where he has been requested or invited to do so by the owner or occupant of property, it is unlawful for any person, whether or not authorized by compliance with section 28-163 to solicit, to commit an act of solicitation in or upon any premises if required by anyone not to do so, or if there is placed on such premises in a conspicuous place near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddlers," "No Agents," "No Solicitors," "No Advertisements" or any similar notice

indicating in any manner that the occupants of such premises do not desire to be molested or have their privacy disturbed.

(Code 1974, § 31-7)

**Sec. 28-168. Representation of city approval prohibited.**

It is unlawful for any person to make any claim or representation, whether orally or in writing, during the solicitation that the city has approved, endorsed or guaranteed his product or service.

(Code 1974, § 31-8)

**Sec. 28-169. Time limitation.**

No person shall engage in solicitation after 9:00 p.m.

(Code 1974, § 31-11)



Receipt Date Stamp

CITY OF CARLSBAD
Planning, Engineering, and Development Dept.
Phone: (575) 885-1185
Fax: (575) 628-8379

NON-REFUNDABLE APPLICATION FEE:

Date: 05/26/2023

- Checked: \$25 Door to Door--City Solicitation License (as regulated by Sec. 28.161)
Other options: \$25 Dance, per day; \$200 Dance, per year; \$50 Boxing, wrestling, fighting, or martial arts exhibitions or contests, per performance; \$100 Carnival, circus, or menagerie, per day; \$250 Pawnbroker, per year

BUSINESS LICENSE
(SPECIAL EVENTS/PAWNBROKERS)
APPLICATION

BUSINESS NAME:
Rene's books

TYPE OF BUSINESS/PURPOSE OF LICENSE:
Early learning reading books and student handbooks for gradeschool.

LOCATION OF BUSINESS (Physical Address):
2604 Globe CT NE, Rio Rancho, NM

NM ID #:
01-180574-00-9

MAILING ADDRESS:
2604 Globe CT NE, Rio Rancho, NM

BUSINESS OWNER:
Rene Perzinski

DATES OF LICENSE USE:
3rd July- 31.august

E-MAIL ADDRESS: rene.perzinski@gmail.com
PHONE NUMBER: 505 353-7254
APPLICANT'S SIGNATURE: R. Perzinski

FOR OFFICIAL USE ONLY
Solicitor's License? [ ] Yes [ ] No
Council Action: [ ] Approved [ ] Denied Date:
Conditions Required:



CAPITOL INDEMNITY CORPORATION
POWER OF ATTORNEY

CIC1935526

Bond Number

KNOW ALL MEN BY THESE PRESENTS That the CAPITOL INDEMNITY CORPORATION, a corporation of the State of Wisconsin, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

WILLIAM R. CARPENTER, VICKIE HARVEY, BRANDEN MILLER, JOANN WARPOOL, HUNTER WELLS

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED \$20,000,000.00

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of CAPITOL INDEMNITY CORPORATION at a meeting duly called and held on the 15th day of May, 2002

RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company, the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time.

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner - Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

IN WITNESS WHEREOF, the CAPITOL INDEMNITY CORPORATION has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 1st day of January, 2020

Attest: Ryan J. Byrnes, Senior Vice President, Chief Financial Officer and Treasurer; Suzanne M. Broadbent, Assistant Secretary



CAPITOL INDEMNITY CORPORATION; John L. Sennott, Jr., Chief Executive Officer and President

STATE OF WISCONSIN }
COUNTY OF DANE } S S

On the 1st day of January, 2020 before me personally came John L. Sennott, Jr., to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut, that he is Chief Executive Officer and President of CAPITOL INDEMNITY CORPORATION, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order



David J. Regele, Notary Public, Dane Co., WI, My Commission Is Permanent

STATE OF WISCONSIN }
COUNTY OF DANE } S S

I, the undersigned, duly elected to the office stated below, now the incumbent in CAPITOL INDEMNITY CORPORATION, a Wisconsin Corporation, authorized to make this certificate, DO HEREBY CERTIFY that the foregoing attached Power of Attorney remains in full force and has not been revoked, and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 6 day of June 20 23



Andrew B. Ditz-Matos, Senior Vice President, General Counsel and Secretary



May 31, 2023

To Whom It May Concern:

This is a letter of introduction to **Rene Perzinski** and the other outstanding participants in our over 165-year-old program who are from Europe and who will be spending their summers in the Land of Enchantment, presenting our company's line of educational resources to consumers.

I grew up in Los Alamos and, over the years, hundreds of college students from our state have participated in this same program, spending their summers learning how to market their products in another region of the country. The young people from Europe who will be coming to New Mexico are carefully selected and trained and are very much looking forward to their experiences in the most unique place in America.

All participants operate their own businesses, and we ask them all to register with local law enforcement and procure whatever permits are needed to lawfully engage in their business. They can also furnish insurance bonds as necessary. They are taught the principles of good customer service, including the Federally mandated three-day right of rescission on consumer direct sales. Delivery of all products is guaranteed by the company, which has an A+ rating from the Better Business Bureau.

These young people are part of the Exchange Visitor program of the United States Department of State, and all were background checked and screened before receiving their visas to work in America for the summer. I know a number of them personally and have met many of their families. They are among the hardest-working young people on earth, and the products they offer are family-oriented educational products. They will have a great experience, and the New Mexicans who meet them will also have a great cultural experience as they learn about the home countries of these young people.

When I sold our company's products as a college student many years ago, it was the basis for what has become my career. It is a pleasure to now recommend these European students to you. I would like to ask that you extend to them the same courtesies we would hope another state would show to the college students from New Mexico who are also participating this summer.

If questions arise, please contact our Senior Tax Accountant, Renee Reels, at 615-391-2909. She can easily reach others within our organization.

Sincerely,

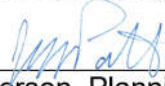
**Dan Moore**

Retired President ~ 2007- 2022

(Los Alamos High School Class of 1973)

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM



COUNCIL MEETING DATE: 7/10/2023

<b>DEPARTMENT:</b> Planning, Engineering and Regulation	<b>BY:</b> Jeff Patterson, Planning Director	<b>DATE:</b> 7/3/2023
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**SUBJECT:** An Appeal of the decision by the Planning and Zoning Commission to deny a Variance request to reduce the required side property setback at 1209 W. Thomas St., originally heard at the June 5, 2023, Planning and Zoning Commission meeting.

Appellant:  
Lucas McDonald  
1209 W. Thomas St  
Carlsbad, NM 88220

**SYNOPSIS, HISTORY and IMPACT (SAFETY AND WELFARE/FINANCIAL/PERSONNEL/INFRASTRUCTURE/ETC.):**

At their regularly scheduled meeting on June 5, 2023, the Planning and Zoning Commission considered a request for a Variance to reduce the required side property setback from a minimum of 5' to 0' at the subject property, 1209 W. Thomas St. The subject property is currently zoned "R-1" Residential 1 District, and the required side property setback is 5'. The applicant, Lucas McDonald, stated in his application that he plans to place a carport structure over his current drive pad in order to provide shelter for his vehicles and provide a covered area for his children to play. The applicant stated at the Planning and Zoning Commission meeting that he would like to cover his existing driveway along his east property line, which would result in the carport being placed within the required 5' side property setback.

The Planning and Zoning Commission considered the application materials and the statements made, and voted to deny the request with a vote of four (4) in favor of denial, zero (0) against denial, and one (1) absent. On June 6, 2023, the applicant, Mr. McDonald, submitted an email stating that he is appealing the decision of the Planning and Zoning Commission to the City Council. Mr. McDonald's email and appeal letter are attached.

Sec. 56-150(c) of the Zoning Ordinance states the following regarding appeals:

**Submittal Requirements.**

An appeal is made by filing a written notice of appeal with the City Administrator which clearly articulates the reasons for the appeal, specifically citing and explaining one or more alleged error:

- (a) In applying adopted City plans, policies and ordinances in arriving at the decision;
- (b) In the appealed action or decision, including its stated facts; and/or
- (c) In acting fraudulently, arbitrarily or capriciously.

Appeals are regulated by Code of Ordinances Sections 56-140(k) and 56-150(c). Section 56-140(k) states (emphasis added):

“Pursuant to this Zoning Ordinance, administrative decisions made by the Planning Director may be reviewed on appeal by the Planning and Zoning Commission. **All final decisions made by the Planning and Zoning Commission may be reviewed on appeal to the City Council.** Final decisions of the City Council may be appealed to District Court pursuant to Section 3-21-9 NMSA 1978. A decision made pursuant to this Zoning Ordinance is final unless an appeal is filed, within 15-days, and as required by law. Substantial deviations from this Zoning Ordinance are considered variances and are a form of appeal and may not be approved by city staff but rather shall be considered by the Planning and Zoning Commission.”

Section 56-150(c) states:

“1. Aggrieved Persons May Appeal.

A person aggrieved by a decision of the Planning Director, City Engineer, other City staff, or the Planning and Zoning Commission, may file an appeal with the City Administrator. An aggrieved person is one who has a personal or pecuniary interest or property right adversely affected by the decision. The interest must be immediate and substantial, not merely nominal or remote.

2. Submittal Requirements.

An appeal is made by filing a written notice of appeal with the City Administrator which clearly articulates the reasons for the appeal, specifically citing and explaining one or more alleged error:

(a) In applying adopted City plans, policies and ordinances in arriving at the decision;

(b) In the appealed action or decision, including its stated facts; and/or

(c) In acting fraudulently, arbitrarily or capriciously.

3. Review Procedures.

(a) An appeal must be filed with the City Administrator within fifteen (15) days after the date of the decision. Untimely appeals shall not be considered.

(b) Upon receipt of a notice of appeal, the City Administrator shall transmit to the City Council or the Planning and Zoning Commission, whichever is the appellant body, all the papers and other documents which constitute the record relating to the action appealed. The appeal shall be heard no later than forty-five (45) days from receipt of the appeal by the City Administrator, unless a waiver is mutually agreed upon by all concerned parties.

(c) An appeal stays all actions by the Planning Director seeking enforcement of or compliance with the decision appealed, unless the Planning Director certifies to the City Council that a stay would cause imminent peril to life or property, because of facts stated in the decision. In which case actions shall not be stayed except by order of the City Council or a court.

(d) **The City Council, by a concurring vote of two-thirds of all members**, or the Planning and Zoning Commission, by a simple majority, whichever the case might be, may reverse, affirm (wholly or partly), remand back or modify the requirement, decision or determination and shall make any requirement, decision or determination that, in its opinion, ought to be made in order to

remedy those situations noted in the appeal.

4. Criteria.

The purpose of the appeal procedure is to determine if the decision being appealed meets the requirements of this Zoning Ordinance. The City Council or the Planning and Zoning Commission, when hearing an appeal, is limited to the following determinations:

- (a) The decision-maker made an error in reviewing whether a standard was met, by a misreading of the facts, plans, regulations or an error in judgment.
- (b) Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility.
- (c) The decision-maker made the decision on standards not contained in this or other City ordinances, regulations or state law; or a standard was applied more strictly or broadly than is appropriate to implement the City's Comprehensive Plan and this Zoning Ordinance.

5. Judicial Review.

The final decision on any application may be appealed to District Court, pursuant to N.M.S.A. 1978, Section 3-21-9, provided all administrative remedies have been exhausted.”

In accordance with the appeal process stated above, the appellant filed his appeal within the 15-day deadline. The Planning Department deemed that the appellant was aggrieved person and that the interest by the appellant was immediate and substantial.

The City Council, **by a concurring vote of two-thirds** of all members, may reverse, affirm (wholly or partly), remand back or modify the requirement, decision or determination and shall make any requirement, decision or determination that, in its opinion, ought to be made in order to remedy those situations noted in the appeal.

**BOARD/COMMISSION/COMMITTEE ACTION:**

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

Reviewed by

City Administrator: /s/John Lowe

Date: 07/06/2023

ATTACHMENTS: Appellant's letter, June 5, 2023, P&Z minutes, application materials.



Jeff Patterson <jepatterson@cityofcarlsbadnm.com>

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## Contest denial

3 messages

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**lunnyluc** <lunnyluc@yahoo.com>  
To: jepatterson@cityofcarlsbadnm.com

Tue, Jun 6, 2023 at 8:33 AM

Good Morning, Mr. Patterson

My name is Lucas McDonald and I would like to contest the denial of my variance for a 0' offset to the city council. Thanks and please let me know when I will be scheduled for that meeting. Have a blessed day  
Lucas

Sent from my Verizon, Samsung Galaxy smartphone

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**Jeff Patterson** <jepatterson@cityofcarlsbadnm.com>  
To: Trysha Ortiz <paortiz@cityofcarlsbadnm.com>

Tue, Jun 6, 2023 at 9:31 AM

[Quoted text hidden]

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**Jeff Patterson** <jepatterson@cityofcarlsbadnm.com>  
To: lunnyluc <lunnyluc@yahoo.com>  
Cc: Trysha Ortiz <paortiz@cityofcarlsbadnm.com>

Wed, Jun 7, 2023 at 3:36 PM

Mr. McDonald, I received your email and your hard copy letter requesting to appeal the decision by the Planning and Zoning Commission to deny your request for a Variance. I will schedule this item to appear before the City Council, and I will inform you of the date of that hearing.

Thank you!

[Quoted text hidden]

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**Jeff Patterson, CFM**  
Director, Planning and Regulation Dept.  
City of Carlsbad  
[575-885-1185](tel:575-885-1185)  
[Ext. 2221](tel:575-885-2221)

# Notice of contest ruling of Variance

Dear, Mr. Patterson

I'm wanting to contest the ruling on my request on a variance change 0 feet from the 5 foot ordinance, that was denied at the planning and zoning meeting on Monday June 5<sup>th</sup>. Please except this is a formal notice to have this heard in front of the city council and the next earliest meeting.

Thanks for your time and I looked forward to hearing from you when this meeting is to be scheduled

Lucas McDonald

*Lucas McDonald*  
6-7-23



**MINUTES OF THE REGULAR MEETING OF THE**

**City of Carlsbad  
Planning & Zoning Commission**

**Monday, June 5, 2023 at 5:00 p.m.**

**Meeting Held in the Janell Whitlock Municipal Complex Council Chambers  
114 S. Halagueno St.**





CITY OF CARLSBAD  
CARLSBAD, NEW MEXICO

**PLANNING AND ZONING COMMISSION**

Monday, June 5, 2023 at 5:00 PM  
Janell Whitlock Municipal Complex Council Chambers  
114 S. Halagueno Street  
GoToMeeting ID: 267-105-437  
US Phone: (571) 317-3122 Access Code: 267-105-437  
<https://meet.goto.com/267105437>

1. Roll call of voting members and determination of quorum
2. Approval of Agenda
3. Approval of Minutes from the Meeting held May 1, 2023
4. Remove from Table a consideration of approval Variance from Article IV, Section 56-100(b) of the Carlsbad Zoning Ordinance requiring the installation of one (1) ADA Accessible Van parking space for the property located at 2404 W. Pierce St., zoned "C-2" Commercial 2 District.
5. Consider a request for a Variance from Article IV, Section 56-100(b) of the Carlsbad Zoning Ordinance requiring the installation of one (1) ADA Accessible Van parking space for the property located at 2404 W. Pierce St., zoned "C-2" Commercial 2 District.
6. Remove from Table a consideration of approval Preliminary/Final Plat for the Robby and Judy Walterscheid Summary Subdivision, located at the intersection of Derrick Rd. and Grandi Rd., outside of the City Limits, creating nine new large tracts for development.
7. Consider approval of a Preliminary/Final Plat for the Robby and Judy Walterscheid Summary Subdivision, located at the intersection of Derrick Rd. and Grandi Rd., outside of the City Limits, creating nine new large tracts for development.
8. Consider approval of a Subdivision Plat for the Replat No. 2 of Boyd Dr Subdivision Line Adjustment located at 3201 Boyd Dr., creating four new tracts for development.
9. Consider a recommendation to the City Council regarding a request for a change of zoning from "R-R" Rural Residential District to "C-2" Commercial 2 District for approximately 18.5 acres, located at 3201 Boyd Dr., legally described as Tract 2A, Tract 2B1, Tract 2B2 & Tract 2B3, Replat No. 2 of Boyd Drive Subdivision Line Adjustment

10. Consider a request for a Conditional Use Permit to allow a Home Occupation – Animal Care, to operate at the property located at 609 W. Fox St., zoned “C-1” Commercial 1 District
11. Consider a request for a Conditional Use Permit to allow Employee Housing, to operate at the property located at 411 Carlgo St., zoned “C-2” Commercial 2 District
12. Consider approval of a Variance to allow 6’ fence along the front setback as opposed to the maximum 4’ fence height for the property located at 104 N. Second St., zoned “R-1” Residential 1 District.
13. Consider approval of a Variance to allow a 25’ front setback as opposed to the minimum 30’ front setback for the property located at 204 Ferndale St., zoned “R-1” Residential 1 District
14. Consider approval of a Variance to allow 5’ rear setback as opposed to the minimum 20’ rear setback for the property located at 1030 Malibu Way., zoned “R-R” Rural Residential District
15. Consider approval of a Variance to allow 0’ side setback as opposed to the minimum 5’ side setback for the property located at 1209 W. Thomas St., zoned “R-1” Residential 1 District
16. Report regarding Summary Review Subdivisions
17. Adjourn



**FOR INFORMATION ONLY**

Agendas and Planning and Zoning Commission meeting minutes are available on the City web site:

[cityofcarlsbadnm.com](http://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

**PLANNING AND ZONING COMMISSION MEETING SCHEDULE**

- Regular meeting – Monday, July 10, 2023 at 5:00 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.

**MINUTES OF A REGULAR MEETING OF THE CITY OF CARLSBAD PLANNING &  
ZONING COMMISSION HELD IN THE JANELL WHITLOCK MUNICIPAL COMPLEX  
COUNCIL CHAMBERS,  
114 S. HALAGUENO STREET, JUNE 5, 2023 AT 5:00 P.M.**

**VOTING MEMBERS PRESENT:**

**JAMES MCCORMICK  
BRAD NESSER  
TRENT CORNUM  
VALERIE BRANSON**

**CHAIRPERSON  
COMMISSIONER  
COMMISSIONER  
COMMISSIONER**

**VOTING MEMBERS ABSENT:**

**LINDA WILSON**

**COMMISSIONER**

**EX-OFFICIO MEMBERS PRESENT:**

**JEFF PATTERSON  
TRYSHA ORTIZ**

**PLANNING DIRECTOR  
DEPUTY PLANNING DIRECTOR**

**SECRETARY PRESENT:**

**JENNIFER CAMPOS**

**PLANNING AND REGULATION  
DEPARTMENT EXECUTIVE SECRETARY**

**OTHERS PRESENT:**

**MELVIN PYEATT  
JEFF O'BRAIN  
SONYA O'BRAIN  
RHONDA HARPER  
SKYLNN MCMINN  
MANUEAL DUTCHOVER  
ROBBY WALTERSCHEID  
JUDY WALTERSCHEIF  
LUCAS MCDONALD  
MARIA CERVERA  
RAQUEL KNIGHT  
MICHAEL A. BRADDOCK  
ROSA LINDA RAMIREZ  
KACEY CORNUM  
MEGHAN CRONIN  
ANDREA CARUSO  
CLAUDIA MAGALLANES**

**413 HAMILTON  
1030 MALIBU WAY  
1030 MALIBU WAY  
410 N MESQUITE  
1601 W URAL DR.  
104 N. 2<sup>ND</sup> ST.  
5409 GRANDI RD.  
5409 GRANDI RD.  
1209 W. THOMAS ST.  
204 FERNDALE  
411 CARLGO  
411 CARLGO  
1212 W. THOMAS  
1081 MOUNUMENT CT.  
STANTEC (via phone)  
AIR METHODS (via phone)  
4008 JESSE JAMES CT.**

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

0:00:02      Start Recording [5:00:51 PM]

0:00:08      **1. Roll call of Voting Members and Determination of Quorum**

Roll was called, confirming the presence of a quorum of commission members. The following members were present— **Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** Absent—**Ms. Wilson.**

0:00:25 **2. Approval of Agenda**

**Mr. Cornum** made a motion to approve the Agenda; **Mr. Nesser** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No—None. Absent—**Ms. Wilson.** Abstained—None. The motion carried.

0:00:55 **3. Approval of Minutes from the Meeting held May 1, 2023**

**Ms. Branson** made a motion to approve the Minutes from the regular meeting held on May 1, 2023; **Mr. Nesser** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No—None. Absent—**Ms. Wilson.** Abstained—None. The motion carried.

0:01:35 **4. Remove from Table a consideration of approval from Article IV, Section 56-100(b) of the Carlsbad Zoning Ordinance requiring the installation of one (1) ADA Accessible Van Parking space for the property located at 2404 W. Pierce St., zoned "C-2" Commercial 2 District.**

**Mr. Nesser** made a motion to remove from table; **Mr. Cornum** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No—None. Absent—**Ms. Wilson.** Abstained—None. The motion carried.

0:02:25 **5. Consider a request for a Variance from Article IV, Section 56-100(b) of the Carlsbad Zoning Ordinance requiring the installation of one (1) ADA Accessible Van parking space for the property located at 2404 W. Pierce St., zoned "C-2" Commercial 2 District.**

The applicants, **Andrea Caruso** from Air Methods and **Meghan Cronin** from Stantec, are in attendance via phone. **Mr. Patterson** explains that this request is to waive the requirement to install an ADA compliant, van accessible parking space to service the new Air Methods facility that will be built at 2404 W. Pierce St. The applicant explains in their application that the new facility is intended for Air Methods employees only, and will not serve customers or the public. Air Methods emergency responders will occupy this new building, and due to the nature of their work, all employees occupying this facility will be able-bodied. As such, Air Methods will not need the ADA compliant parking to serve the new business. Also, the parking that they will be utilizing is existing parking owned by Carlsbad Medical Center, and the slope of the parking surface is too severe to meet ADA requirements. They would have to rebuild the parking lot to meet this requirements, so they are requesting this variance. **Ms. Caruso** explains that they operate the emergency medical flights that service Carlsbad Medical Center and what they are doing is putting in a modular trailer at the subject site to accommodate their on shift employees. **Mr. McCormick** asked if their current employees are not handicap and if they do not need the ADA accessible parking. **Ms. Caruso** said yes, so that only people that are able to get in and out of the helicopter will be staying in the modular structure. **Mr. Patterson** said this proposed project will be constructed under a lease agreement for the parcel between Air Methods and Carlsbad Medical Center. The slope of the existing parking spaces to the northwest are the only spaces which are ADA complaint. The slope of the parking area to the south is too great to allow ADA parking. Planning Department recommends approval. **Ms. Cronin** stated that the building that's being proposed is going to sit on the area where there will be slight slope. It will be a modular building and sitting above the ground, and a ramp and walkways will be installed. They will not have any curb cuts added to the exiting curb, but the walkway will be accessible per code. They just can't establish any of the parking spaces as accessible because the slope is too steep to meet code. Floor opened for public comment. There was none.

**Mr. Cornum** made a motion for approval; **Mr. Nesser** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No—None. Absent—**Ms. Wilson.** Abstained—None. The motion carried.

0:14:35 **6. Remove from Table a consideration of approval Preliminary/Final Plat for the Robby and Judy Walterscheid Summary Subdivision, located at the intersection of Derrick Rd. and Grandi Rd., outside of the City Limits, creating nine new large tracts for development.**

Mr. Nesser made a motion to remove from table; Mr. Cornum seconded the motion. The vote was as follows: Yes— Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson. No—None. Absent—Ms. Wilson. Abstained—None. The motion carried.

0:15:19 **7. Consider approval of a Preliminary/Final Plat for the Robby and Judy Walterscheid Summary Subdivision, located at the intersection of Derrick Rd. and Grandi Rd., outside of the City Limits, creating nine new large tracts for development.**

Melvin Pyeatt, the surveyor for the landowners, comes to podium. Mr. Patterson explains this request is for the approval of a preliminary and final plat that will split the current +/- 97.5 acre property owned by Robby & Judy Walterscheid into nine separate large tracts. The attached subdivision plat shows the access that will be provided off of Grandi Rd. for Lots 1&2, and the access that will be provided off of Derrick Rd. for Lots 3-9. The access off of Derrick Rd. will need to cross over an irrigation ditch, so the applicants are placing a crossing into Lot 9, then providing a 60' access easement across Lots 3-9 from this one crossing. There will be a turnaround installed at the west end of this access easement at Lot 3. For Lots 1&2, the access from Grandi Rd. will enter Lot 1 and run east through a 60' access easement to Lot 2. The applicants have not stated how water will be provided to these properties. All lots will be served by in ground septic systems. The City's Planning Office has consulted with Eddy County officials to discuss the access issues that are present for this property. It was suggested by the Eddy Co. Planner and the City's Planning office that an additional crossing along Derrick Rd. be installed to provide a second means of access in case of emergency. Planning Department recommends approval. Mr. McCormick asked if they are aware of the city's conditions. Mr. Pyeatt said yes, and for the water issue they're going to drill water wells. Mr. Cornum asked Mr. Pyeatt if they were going to be shared or individual wells for the lots. Mr. Pyeatt responded individual wells per lot. Floor opened for public comment. There was none.

Mr. Nesser made a motion for approval with the recommendations from the City for an additional crossing along Derrick Rd. be installed to provide a second means of access in case of emergency; Mr. Cornum seconded the motion. The vote was as follows: Yes-- Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson. No— None. Absent—Ms. Wilson. Abstained—None. The motion carried.

0:21:29 **8. Consider approval of a Subdivision Plat for the Replat No. 2 of Boyd Dr. Subdivision Line Adjustment located at 3201 Boyd Dr., creating four new tracts for development.**

Kacey Cornum, representing Valley Transportation properties, comes to the podium. Mr. Patterson explains this request is for a Subdivision Plat for the Replat No. 2 of Boyd Drive Subdivision Line Adjustment, located at 3201 Boyd Drive. This request is for the approval of a subdivision plat that will split the current +/- 18.5 acre property owned by Valley Transportation, LLC into four separate large tracts. The attached subdivision plat shows that the access will be provided off of W. Rose St for Tracts 2B1, 2B2 & 2B3, and the access that will be provided off of Boyd Dr. for Tract 2A. There are water utilities along Rose Street that will service these lots. City sewer service in that area is yet to be determined. There will need to be in ground septic for the new lots unless the property can extend City sewer to these properties. Right now the property owner is seeking a zone change for the subject property from "R-R" Rural Residential District to "C-2" Commercial 2 District which will be heard at City Council at a later date. Mr. Cornum asked to be recused for this item. Floor opened for public comment. There was none.

**Mr. Nesser** made a motion for approval; **Ms. Branson** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Ms. Branson.** No—None. Absent—**Ms. Wilson.** Abstained—**Mr. Cornum.** None. The motion carried.

0:25:25      **9. Consider a recommendation to the City Council regarding a request for a change of zoning from “R-R” Rural Residential District to “C-2” Commercial 2 District for approximately 18.5 acres, located at 3201 Boyd Dr., legally described as Tract 2A, Tract 2B1, Tract 2B2 & Tract 2B3, Replat No. 2 of Boyd Drive Subdivision Line Adjustment.**

**Kacey Cornum** is representing Valley Transportation properties, comes to the podium. **Mr. Patterson** explains this request for a change of zoning from “R-R” Rural Residential District to “C-2” Commercial 2 District for approximately 18.5 acres, located at 3201 Boyd Dr., legally described as Tract 2A, Tract 2B1, Tract 2B2 & Tract 2B3, Replat No. 2 of Boyd Drive Subdivision Line Adjustment. The properties to the east & west are zoned “R-R” Rural Residential District; the properties to the north & south are zoned “C-2” Commercial 2 District. This will not create a spot zone. Floor opened for public comment. There was none.

**Mr. Nesser** made a motion for approval; **Ms. Branson** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Ms. Branson.** No—None. Absent—**Ms. Wilson.** Abstained—**Mr. Cornum.** None. The motion carried.

**Mr. Patterson** said this item will be heard at City Council on July 25, 2023

0:28:29      **10. Consider a request for a Conditional Use Permit to allow a Home Occupation-Animal Care, to operate at the property located at 609 W. Fox St., zoned “C-1” Commercial 1 District.**

The applicant, **Skylnn McMinn**, comes to the podium. **Mr. Patterson** explains this request is for a Conditional Use Permit to allow an Animal Care - Pet Salon, to operate at the property located at 609 W. Fox St., a property zoned “C-1” Commercial 1 District, in accordance with Sections 56-42, Table 3, of the City of Carlsbad Zoning Ordinance. The property is currently zoned “R-2” Residential 2 District, however, the applicant has submitted a request to change the zoning to “C-1” Commercial 1 District. The zone change request was heard by the Planning and Zoning Commission at the May 1, 2023, Commission meeting, and the Commission voted to recommend approval of this request to the City Council. The Council is scheduled to hear the zone change request at the June 13, 2023, Council meeting. The applicant has stated that their customers will be dropping off and picking up their pets daily. Sec. 56-42(c) states that no outdoor overnight boarding of animals is allowed. The Planning Department recommends approval. **Ms. McMinn** said she’s only going to be grooming dogs at this location, and there will be there’s no set schedule. She’s going to be hiring a family friend to help her bathe the dogs. It will be open Monday through Friday. Her grandmother is the owner of the property. There will not be any dogs outside. Customers will just be dropping off and picking them up the animals daily. **Mr. Patterson** said that the Zone Change would have to be successful in order for the Conditional Use to be valid. Floor opened for public comment. There was none. **Mr. Nesser** asked how many parking spaces are going to be on Fox Street. **Ms. Harper** said they have already taken out room for four renters from there and they could possibly fit up to ten spaces.

**Mr. Nesser** made a motion for approval the Conditional Use permit depending on approval of the zoning change request from City Council; **Mr. Cornum** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No—None. Absent—**Ms. Wilson.** Abstained—None. The motion carried

0:34:24

**11. Consider a request for a Conditional Use Permit to allow Employee Housing to operate at the property located at 411 Carlgo St., zoned “C-2” Commercial 2 District.**

The applicant, **Raquel Knight**, comes to the podium. **Mr. Patterson** explains this is a request for a Conditional Use Permit to allow the installation of work-force housing, termed Employee Housing, to be located at 411 Carlgo St., zoned “C-2” Commercial 2 District. The applicant has placed two (2) “Legacy Housing” manufactured homes at this site and will need to work with the appropriate departments regarding compliance and utilities of the two structures. The Planning and Zoning Commission can require additional improvements to the site as conditions of approval, if desired. Conditional Use Permits are not transferable and do not run with the land. Conditional Use Permits expire upon the sale, transfer, or lease of the property to a new owner or tenant. The Planning Department, based on department recommendations and analysis, recommends approval of Employee Housing with the following conditions: • Work with the Building Department by providing information on the modular units • Provide a unit and occupancy count. **Ms. Knight** explains that they have a trucking company and would like to house their employees at this site because most of them do not live in Carlsbad. **Mr. McCormick** asked if the structures were already there. **Ms. Knight** answered yes. **Mr. Patterson** said that the Building Department was asking for more information about the structures because the Inspectors were not consulted before the buildings were placed. **Ms. Branson** asked about the regulations on the side and rear setbacks. **Mr. Patterson** answered that this property, being zoned “C-2” Commercial 2 District, would have a required 5’ side and 10’ rear setback. **Mr. Cornum** asked if there has been any surveyor to check to see if the structures are encroaching on the setbacks. **Mr. Cornum** referenced the maps in the packet and asked if the buildings indicated were the buildings being utilized. **Ms. Knight** said yes. **Mr. Cornum** asked if they were tied to City Utilities. **Ms. Knight** said she thought one of the buildings was and the other was not. **Ms. Branson** said the building on east side of the property is looks to be within the 5’ side setback and the building on the south side looks to be within the 10’ rear setback. **Mr. Cornum** asked if the applicant would need a Variance request approved in order for the Commission to approve the Conditional Use Permit. **Mr. Patterson** said that the applicant would need an approved Variance for encroaching into the setbacks, or the buildings need to be moved out of the setbacks, one or the other. **Mr. Cornum** asked how many spaces are available for people to stay. **Ms. Knight** said there’s five rooms per trailer, with each room having two beds, so there would be ten spaces per building. **Ms. Branson** asked **Mr. Patterson** if he knew what the current occupancy on all man camps within the City was as of now. **Mr. Patterson** said he doesn’t have an exact number but it’s possibly 1100 or 1200 units between modular man camps and RV parks. **Ms. Branson** asked if there’s any parking at the subject site. **Ms. Knight** said it’s in the middle of the property. **Mr. McCormick** explains to **Ms. Knight** that the buildings are not in compliance with the setbacks and in order for them to approve this Conditional Use she would need to get a Variance to go along with this request.

**Mr. Cornum** asked **Ms. Knight** why the business has trucks that are parked in the ROW for National Parks Hwy. Those trucks should be parked towards the back of the property. **Ms. Knight** said she didn’t know. **Mr. Nesser** addressed **Mr. Cornum** that the NMDOT normally enforces parking on the right of way. Floor opened for public comment. There was none.

**Ms. Branson** made a motion for denial; **Mr. Cornum** seconded the motion. The vote was as follows: Yes—**Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No—None. Absent—**Ms. Wilson.** Abstained—None. The motion for denial carried.

0:58:22

**12. Consider approval of a Variance to allow 6’ fence along the front setback as opposed to the maximum 4’ fence height for the property located at 104 N Second St., zoned “R-1” Residential 1 District.**

The applicant, **Manuela Dutchover**, comes to the podium. **Mr. Patterson** explains this request is for a Variance from Ord. 56-70(d)(5)(c) to allow a 6’ fence along the front property line as opposed to the maximum 4’ fence height for the property located at 104 N. Second St., zoned “R-1” Residential 1 District. The applicant has constructed a solid 6’ fence along the front and side property lines. A permit

was not applied for or issued. Based on review of the application materials and other staff comments, the Planning Dept. recommends approval of this request with the following condition: • The applicant shall taper the fence down to 4' beginning 10' from the front property line. **Ms. Dutchover** said that she had a contractor from Lowe's install the fence. She asked the contractor if he was sure he could install it and she didn't get the proper permits for it. It's a wooden fence and she lives alone and doesn't trust anyone walking through her neighborhood. **Mr. Cornum** asked **Ms. Dutchover** if she's willing to comply with what the city has requested. **Ms. Dutchover** said she really doesn't want to but if she has to she will comply. **Ms. Ortiz** explained that the property to the south of Ms. Dutchover is zoned "C-2" as to where Ms. Dutchover is zoned "R-1". When commercial property abuts residential, the commercial property is required to put up a solid 6' fence. Also, does the 6' fence go all the way to the property line on their rear or does it stop. **Ms. Dutchover** said it stops. **Ms. Branson** said she's not saying that the metal fence is a problem of Ms. Dutchover because it's the neighbor's backyard fence that doesn't need to come down. **Ms. Ortiz** said correct. **Mr. Cornum** said it would be the northwest corner and front of her property that would have to be tapered down. **Mr. McCormick** said yes. Floor opened for public comment. There was none.

**Mr. Cornum** made a motion for approval; **Ms. Branson** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No— None. Absent—**Ms. Wilson.** Abstained—None. The motion carried.

1:18:37      **13. Consider approval of a Variance to allow a 25' front setback as opposed to the minimum 30' front setback for the property located at 204 Ferndale St., zoned "R-1" Residential 1 District.**

The applicants, **Maria Cervera and Claudia Magallanes**, come to the podium. **Ms. Ortiz** explained the applicant has submitted a request to allow a 25' front setback as opposed to the minimum 30' front setback for the property located at 204 Ferndale St. The applicant has provided a site plan for the proposed new construction. The applicant would like to build a covered front porch that will encroach 6' into the front setback. The home currently sits 31' from the front parcel line, which would result in a 25' front setback. Planning Department recommends approval. **Ms. Magallanes** said they want it to be 6' out like a patio cover and see through all the way around. **Mr. McCormick** asked if it's going to be attached to the house. **Mr. Cornum** asked if it's going to have a metal roof. **Ms. Magallanes** said they haven't decided on metal or shingle. Depending on the outcome of tonight's meeting, if we get approved then we can get prices and see what they decide and work with the finish of the house. Floor opened for public comment. There was none.

**Mr. Nesser** made a motion for approval; **Mr. Cornum** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No— None. Absent—**Ms. Wilson.** Abstained—None. The motion carried.

1:23:30      **14. Consider approval of a Variance to allow 5' rear setback as opposed to the minimum 20' rear setback for the property located at 1030 Malibu Way., zoned "R-R" Rural Residential District.**

The applicant **Jeff O'Brain**, comes to the podium. **Mr. Patterson** explains this is a request for Variance from Ord. 56-90(b) to allow a 5' rear setback as opposed to the minimum 20' rear setback for the property located at 1030 Malibu Way., zoned "R-R" Rural Residential District. The restrictions filed with the plat call for a 20' rear setback and a 5' side setback for the subdivision. The applicant has provided a preliminary site map showing the proposed structure location on the property. He would like to construct a 30' x 60' shop on the property. Based on review of the application materials and other staff comments, the Planning Dept. recommends approval of this request with the following recommendation: • The applicant be allowed a 10' rear setback as opposed to 5'. **Mr. O'Brain** said he would like to build a 30' x 60' shop there and since there is an existing fence in the middle of his back yard and sprinkler systems, he would like to build the new structure within the rear setback. There's a cross metal fence that the



previous owners had to keep the children and the dogs separated, and in order for him to not move the sprinkler system and the fence, he wants to go to toward the back fence to and leave 5'. **Mr. O'Brain** asked what would be the rationale of the 10' instead of the 5', what's the purpose. **Mr. Patterson** said when the city staff reviews these applications, emergency services looks closely at the reductions on the setbacks. Emergency Services recommended the 10' rear setback compromise. Floor opened for public comment. There was none.

**Mr. Nesser** made a motion for approval for a 7.5' variance; no second of the motion was made. The motion for a 7.5' rear setback variance died due to lack of a second motion.

**Mr. Cornum** made a motion for approval for a 5' variance; **Ms. Branson** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No— None. Absent—**Ms. Wilson.** Abstained—None. The motion carried.

1:34:10 **15. Consider approval of a Variance to allow 0' side setback as opposed to the minimum 5' side setback for the property located at 1209 W. Thomas St., zoned "R-1" Residential 1 District.**

The applicant, **Lucas McDonald**, comes to the podium. **Mr. Patterson** explains this request is for a Variance from Ord. 56-90(b) to allow a 0' side setback as opposed to the minimum 5' side setback for the property located at 1209 W. Thomas St., zoned "R-1" Residential 1 District. The applicant would like to place a carport over the existing driveway on the east side of the property. Based on review of the application materials and other staff comments, the Planning Dept. recommends denial of this request. **Mr. McDonald** said he's just trying to protect his vehicles from the weather. Also, he wants to give his daughter a place to ride her bike in the shade. It's going to be a metal carport bolted to the ground. **Mr. McCormick** asked if it was enclosed. **Mr. McDonald** said it's just a roof. **Mr. Nesser** asked how wide the driveway is. **Mr. McDonald** said it's about 19' 8" and it's a 20 x 30 x 9 carport. **Ms. Ramirez** said she's Luke's neighbor directly across the street, and she has about 5 windows that are 5 1/2' to 6' in her living room so she sees directly to his house. She doesn't want to wake up every morning and see this eyesore in her neighborhood and especially looking out her windows. They live on West Thomas St., and it's a block from Riverside Dr. and nobody in that neighborhood has a carport extending out. She wants to talk about the ordinance. They put in ordinances to protect their living areas, because one of the biggest investments in life is their property and that being second to their children. She wants to talk about the neighborhood. They've had many oilfield workers residing in her neighborhood that drive large trucks. They have a lot of trucks parked along the street after 5:00 PM and the children often run between vehicles into the street. Her concern is not only the eyesore, it's also the lack of visibility when they ride their bike. Also, the noise that it will bring to the area with the metal roof. **Ms. Ramirez** said when **Mr. McDonald** came to the board before to have a business out of his house he stated that he would put in a circular driveway for his customer's to park on his driveway and not on the street. That never happened. The reality is that whatever is decided is what they are to live with, but ordinances in the city are made to be followed and it's for the protection for everyone. She hopes that the item is denied. **Mr. McDonald** said if he puts the carport in the middle of his driveway, he wouldn't need to be here, so he has the right to place a carport in front. He's only asking for it to be on his property line. He understands that there's not carport in the neighborhood. **Mr. Cornum** asked to make sure to check on the 30' setback and whether the carport would encroach on the street ROW. **Mr. Patterson** said it's close to 30' but it's hard to be accurate when measuring in the GIS. **Ms. Ramirez** said some of the neighbors have their carports behind their house. **Mr. Cornum** asked if he had alley access. **Mr. McDonald** said no and he has a 6' cinder block fence all the way around his house. **Mr. Nesser** asked if he could move it over and add to the width to the driveway. **Mr. McDonald** said no, it would then be encroaching into his house and his front yard.

**Mr. Cornum** made a motion for denial for the zero setback; **Ms. Branson** seconded the motion. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No— None. Absent—**Ms. Wilson.** Abstained—None. The motion for denial carried.

**Mr. McCormick** said that this decision could be appealed to the City Council. **Mr. Patterson** said that he would need a letter email from Mr. McDonald delivered to his office within 15 days of today’s date. An appeal then can be scheduled to go before City Council.

1:51:25      **16. Report regarding Summary Review Subdivisions**

**Mr. Patterson** gave a report on the Summary Reviews. Nothing unusual was noted.

1:54:35      **17. Adjourn**

**Ms. Wilson** made a motion to Adjourn; **Mr. Nesser** seconded the motion. The vote was as follows: **Yes--Mr. Nesser, Mr. Cornum, Ms. Wilson.** No—None. Absent—**Mr. McCormick, Ms. Branson.** Abstained—None. The motion carried.

The meeting was adjourned.

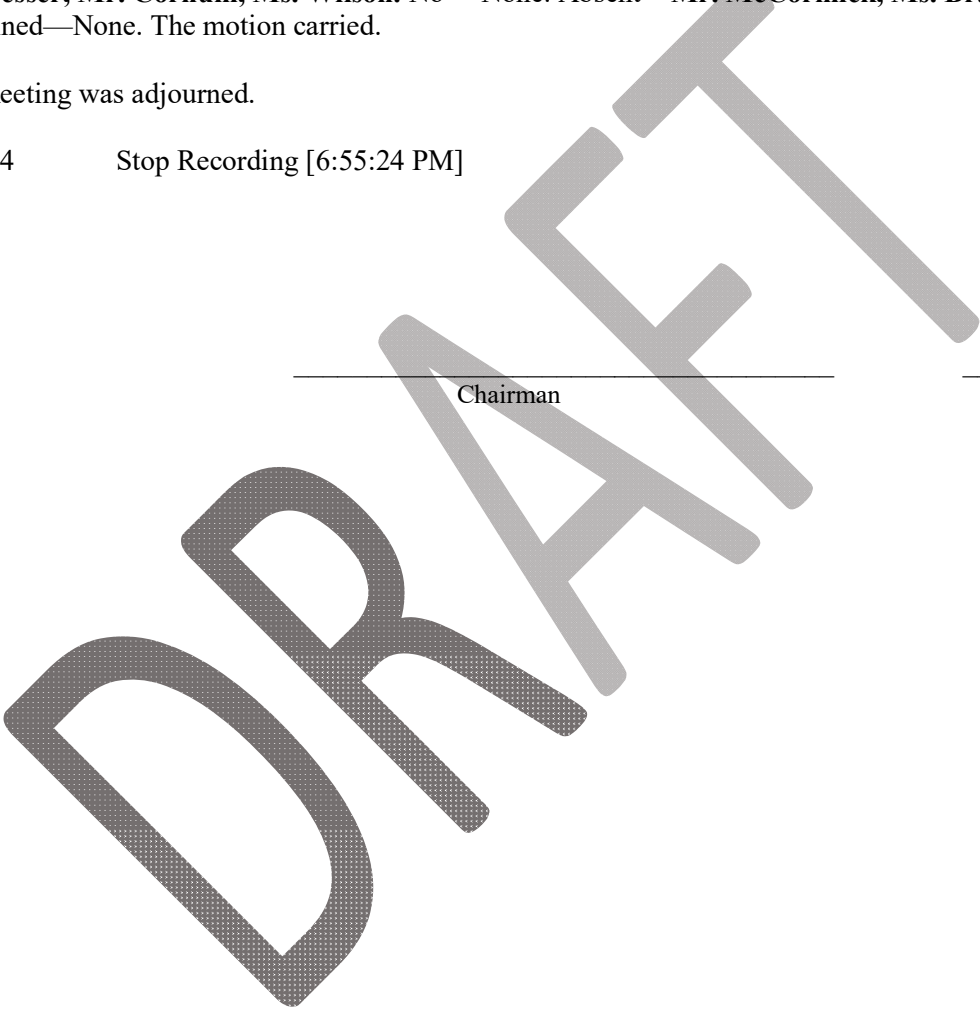
1:55:24      Stop Recording [6:55:24 PM]

\_\_\_\_\_

Chairman

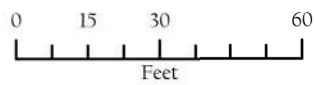
\_\_\_\_\_

Date





- ! Carlsbad Address
- Parcel
- Roads
- Sewer Main
- Water Main



IMPORTANT: Maps, products and data are NOT surveyor quality and are only to be used as a reference.





CITY OF CARLSBAD

Planning, Engineering, and Regulation Department

PO Box 1569, Carlsbad, NM 88221

Phone (575) 885-1185

Fax (575) 628-8379

BOARD OF APPEALS APPLICATION (VARIANCE FROM SUBDIVISION OR ZONING ORDINANCE) Sec. 47-7 or Sec. 56-150(c)

Application Date: \_\_\_\_\_

Fee Paid (\$50.00): paid 10

APPLICANT INFORMATION:

Lucas McDonald 1209 W. Thomas St. Carlsbad NM 88220 719-859-4032

PROPERTY OWNER INFORMATION (IF DIFFERENT FROM APPLICANT):

NAME ADDRESS CITY STATE ZIP PHONE EMAIL

LEGAL DESCRIPTION AND/OR STREET ADDRESS OF PROPERTY (FOR WHICH VARIANCE IS REQUESTED): \_\_\_\_\_

TYPE OF REQUEST (CHECK ONE):

VARIANCE FROM THE SUBDIVISION REGULATIONS (CHAPTER 47 - CODE OF ORDINANCES) AS PROVIDED FOR IN SECTION 47-7, VARIANCES.

SPECIFY REGULATION AND/OR SUBSECTION: \_\_\_\_\_

VARIANCE FROM THE ZONING ORDINANCE (CHAPTER 56 - CODE OF ORDINANCES) AS PROVIDED FOR IN SECTION 56-150(c).

SPECIFY REGULATION AND/OR SUBSECTION: 56-90 (b)

**JUSTIFICATION FOR REQUEST AND SITE PLAN:** (Describe the topographical uniqueness of the property or extreme practical difficulties or undue hardship that would result from the strict application of the requirement(s) contained in the ordinance section from which the variance is requested. Include a site plan drawn to scale or with accurate dimensions showing property lines, existing and proposed fences and/or walls, setbacks, building and structure locations and parking areas. Attach a separate sheet if necessary.)

**Zoning Ordinance**

**Criteria for Appeals - Sec. 56-150(c)(4):**

The purpose of the appeal procedure is to determine if the decision being appealed meets the requirements of this Zoning Ordinance. The City Council or the Planning and Zoning Commission, when hearing an appeal, is limited to the following determinations:

- (a) The decision-maker made an error in reviewing whether a standard was met, by a misreading of the facts, plans, regulations or an error in judgment.
- (b) Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility.
- (c) The decision-maker made the decision on standards not contained in this or other City ordinances, regulations or state law; or a standard was applied more strictly or broadly than is appropriate to implement the City's Comprehensive Plan and this Zoning Ordinance.

**Subdivision Regulations**

**Criteria for Appeals – Sec. 47-7**

Whenever, in the opinion of the board of appeals, the strict application of the requirements contained in this chapter would result in extreme practical difficulties or undue misuse of property, the board may modify such requirements as are necessary so that the subdivider is allowed to develop his/her property in a reasonable manner providing that the public interests of the community and its citizens are protected and the general intent and spirit of these regulations are preserved. **The board shall grant such a variance or modification only upon determination that:**

1. **The variance will not be detrimental to the public health, safety and general welfare of the community;**
2. **The variance will not adversely affect the reasonable development of adjacent property;**
3. **The variance is justified because of topographic or other special conditions unique to the property involved in contradistinction to mere inconvenience or financial disadvantage;**
4. **The variance is consistent with the objectives of this chapter and will not have the effect of nullifying the intent or purpose of this chapter or the comprehensive plan;**
5. **The variance has been shown to be in the best interest of the general public and not only of interest to the developer, land owner or other interested party;**
- 6 **The hardship must not be pecuniary and must be a direct result of the land location, topography or other characteristic;**
- 7 **Where a variance is requested from the required provision of sidewalks, and ADA compliant, alternative route to the nearest bus stop or school is required. If an alternative route cannot be provided, a variance shall not be approved.**

<b>FOR OFFICIAL USE ONLY</b>			
<b>Required prior to P &amp; Z:</b>			
Complete Application Including:	<input type="checkbox"/> Site Plan	<input type="checkbox"/> Fee	<input type="checkbox"/> Notification
	<input type="checkbox"/> Sign Posting Agreement		<input type="checkbox"/> Letter of Explanation
	<input type="checkbox"/> ABM	<input type="checkbox"/> Staff Comments	<input type="checkbox"/> Sign Posted
			<input type="checkbox"/> Application Packet
P & Z Action:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Other
			Date: _____



# NOTIFICATION SIGN POSTING AGREEMENT

Notification of Public Hearings before the City of Carlsbad Planning and Zoning Commission is required pursuant to Sec. 56-140(i).

- Signs shall be posted a minimum of 5 days prior to and shall be removed a maximum of 5 days after the public hearing.
- If the sign is not posted as required, the application will be delayed and will not be considered at the public hearing as scheduled.
- The sign shall be posted at the street side property line with a secure stake provided by the applicant.

I have read and understand these requirements. I understand where the sign is to be located and my obligation to post the sign prior to the public hearing and remove it afterwards.

  
APPLICANT SIGNATURE

5-3-20  
DATE

Sign issued by: \_\_\_\_\_  
Staff Member



Date: \_\_\_\_\_

Dear Property Owner,

This letter serves as legal notification of a pending action before the City of Carlsbad Planning and Zoning Commission in accordance with Code of Ordinances Sec. 56-140(i). You are being notified because you are a property owner within one-hundred feet (100') of the subject site.

Applicant: Lucas McDonald  
Name Address Phone

Subject Site Location: 1209 W. Thomas St.

The proposed action is a:

- Zoning Change from \_\_\_\_\_ to \_\_\_\_\_ in accordance with Sec. 56-150(b).
- Variance/Appeal from Sec. 56-90(b) in accordance with Sec. 56-150(c).

The purpose of the variance/appeal is:  
Place a carport in the side setback.

- Conditional Use Permit in accordance with Sec. 56-150(f). The purpose of the permit is for a:
  - Home Occupation: \_\_\_\_\_
  - Other Use: \_\_\_\_\_

The Planning and Zoning Commission will consider this request at a Public Hearing on:

Date: 6/5/2023  
Time: 5:00pm  
Place: **City Annex Planning Room**  
**114 S. Halagueno St.**  
**Carlsbad, NM 88220**

The Code of Ordinances can be found on the City's website [www.cityofcarlsbadnm.com](http://www.cityofcarlsbadnm.com). For details about this request contact the applicant OR contact the City Planner at 575-885-1185 or via email at [jepatterson@cityofcarlsbadnm.com](mailto:jepatterson@cityofcarlsbadnm.com).

Sincerely,



Applicant/Agent

Valued Customer of  
Pac N Mail  
910 W. Pierce St.  
Carlsbad, NM 88220  
(575)887-6245  
Track Your Packages at  
WWW.PACMAIL.NET

Shipment-----

USPS First Class Mail

Ship To:

JOSHUA AND NICHOLETTE LAWSON  
1206 W URAL DR  
CARLSBAD, NM 88220-4061

Package ID: 459132 8.93  
Tracking #: 9407111206207255497310  
Certified [\$8.00]

Shipment-----

USPS First Class Mail

Ship To:

JUSTIN K ETAL JOHNSON  
1208 W URAL DR  
CARLSBAD, NM 88220-4061

Package ID: 459134 8.93  
Tracking #: 9407111206207255424378  
Certified [\$8.00]

Shipment-----

USPS First Class Mail

SHIP TO:

CHRISTOPHER BATES  
1210 W URAL DR  
CARLSBAD, NM 88220-4061

Package ID: 459136 8.93  
Tracking #: 9407111206207255421742  
Certified [\$8.00]

Shipment-----

USPS First Class Mail

Ship To:

ROSA RAMIREZ  
1212 W THOMAS ST  
CARLSBAD, NM 88220-4043

Package ID: 459137 8.93  
Tracking #: 9407111206207255455969  
Certified [\$8.00]

Shipment-----

USPS First Class Mail

Ship To:

STACY AND TINA BRITAIN  
1204 W URAL DR  
CARLSBAD, NM 88220-4061

Package ID: 459138 8.93  
Tracking #: 9407111206207255469140  
Certified [\$8.00]

Shipment-----

USPS First Class Mail

Ship To:

NICHOLAS AND CANDACE PEARCE  
1205 W THOMAS ST  
CARLSBAD, NM 88220-4042

Package ID: 459139 8.93  
Tracking #: 9407111206207255467832  
Certified [\$8.00]

Shipment-----

USPS First Class Mail

Ship To:

ANDREW AND KIFFANIE TWITCHELL  
1207 W THOMAS ST

\*\*\*\*\*

CARLSBAD, NM 88220-4042

Package ID: 459140 8.93  
Tracking #: 9407111206207255483641  
Certified [\$8.00]

Shipment-----

USPS First Class Mail  
Ship To:

JUAN BARRERA  
1213 W THOMAS ST  
CARLSBAD, NM 88220-4042

Package ID: 459141 8.93  
Tracking #: 9407111206207255487199  
Certified [\$8.00]

Shipment-----

USPS First Class Mail  
Ship To:

LESTER MCNUTT  
1211 W THOMAS ST  
CARLSBAD, NM 88220-4042

Package ID: 459142 8.93  
Tracking #: 9407111206207255409603  
Certified [\$8.00]

Shipment-----

USPS First Class Mail  
Ship To:

ERIC AND ABELINA ESTRADA  
1210 W THOMAS ST  
CARLSBAD, NM 88220-4043

Package ID: 459143 8.93  
Tracking #: 9407111206207255405858  
Certified [\$8.00]

Shipment-----

USPS First Class Mail  
Ship To:

DANIEL AND JILLIAN FIERRO  
1214 W THOMAS ST  
CARLSBAD, NM 88220-4043

Package ID: 459144 8.93  
Tracking #: 9407111206207255408958  
Certified [\$8.00]

Copies 11 @ 0.18 1.98 TX

SUBTOTAL	100.21
TAX	
State Tax on 1.98	0.15
TOTAL	100.36
TEND Credit Card	100.36

Total shipments: 11  
LUCAS MCDONALD

05/02/2023  
05:55 PM

#348905

Marketplace ID: 18 Postnet 0

**CITY OF CARLSBAD  
AGENDA BRIEFING MEMORANDUM**

**COUNCIL MEETING DATE: July 11, 2023**

<b>DEPARTMENT:</b> Executive	<b>BY:</b> Wendy Austin – Deputy City Administrator <i>WA</i>	<b>DATE:</b> July 3, 2023
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**SUBJECT:**  
Resolution increasing the contribution, from the City of Carlsbad (City), to the New Mexico Public Employees Retirement Association (PERA) for Carlsbad Police Officers Association (CPOA) union members participating in Municipal General Plan 3

**SYNOPSIS, HISTORY and IMPACT (SAFETY AND WELFARE/FINANCIAL/PERSONNEL/INFRASTRUCTURE/ETC.):**

State Statute, NMSA 1978, Section 10-11-5, authorizes affiliated public employers of PERA to make contributions of up to seventy-five percent (75%) of its employees' member contributions.

In an effort to recruit, hire, and retain law enforcement personnel, the City is recommending a fifty-seven, point twenty-seven percent (57.27%) pick-up for CPOA union members participating in Municipal General Plan 3. This increase is summarized below:

	<b>Employee</b>	<b>City</b>	<b>Total</b>
Proposed	7.00%	19.45%	26.45%
Current	12.65%	12.80%	25.45%
Increase (Decrease)	(5.65%)	6.65%	1.00%

CPOA union members participating in Municipal General Plan 3, include: Animal Control Officers, Animal Control Supervisors, Community Services Officers, Evidence Clerks, Record Clerks, Record Clerk Supervisors, Telecommunicators, and Telecommunicator Supervisors.

If the resolution is approved by the Carlsbad City Council, the resolution will then go before the PERA Board meeting to be held in August 2023. If the PERA Board approves the contribution adjustments, the updated contributions will be implemented the first full pay-period in September 2023.

**DEPARTMENT RECOMMENDATION:**  
Approve the resolution to increase the City's contribution for CPOA union members participating in Municipal General Plan 3

**BOARD/COMMISSION/COMMITTEE ACTION:**

<input type="checkbox"/> P&Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	<input type="checkbox"/> APPROVED
<input type="checkbox"/> Museum Board	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	<input type="checkbox"/> DISAPPROVED
<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> Budget Committee	

**Reviewed by:**  
City Administrator: /s/John Lowe Date: 07/06/2023

- ATTACHMENTS:**
- Resolution Authorizing 55.27% Pick-up of PERA Member Contributions

**RESOLUTION NO. 2023-32**

**RESOLUTION AUTHORIZING 55.27% PICK-UP  
OF PERA MEMBER CONTRIBUTIONS**

WHEREAS, NMSA 1978, Section 10-11-5, authorizes affiliated public employers to be responsible for making contributions of up to seventy-five percent of its employees' member contributions to the Public Employees Retirement Association (PERA) under certain conditions;

WHEREAS, the City of Carlsbad authorizes an increased employer pick-up for the Carlsbad Police Officers Association (CPOA) union members participating in the Municipal General Coverage Plan 3 in an ongoing effort to recruit, hire and retain law enforcement personnel;

WHEREAS, the City of Carlsbad desires to make fifty five point twenty seven percent (55.27%) of employee contributions for its municipal employees covered under the PERA Municipal General Coverage Plan 3 that are a part of the Carlsbad Police Officers Association (CPOA) Union;

WHEREAS, pursuant to NMSA 1978, Section 10-11-5, this Resolution is irrevocable (subject to the exceptions set forth in Section 10-11-5) and shall apply to all City of Carlsbad CPOA union employees within the PERA Municipal General Coverage Plan 3;

THEREFORE, BE IT RESOLVED, that the City of Carlsbad, pursuant to NMSA 1978, Section 10-11-5, hereby elects to be responsible for making contributions of fifty five point twenty seven percent (55.27%) of employees' member contributions to the Public Employees Retirement Association for its municipal employees that are a part of the CPOA union under the PERA Municipal General Coverage Plan 3. To take effect the first full pay period in September of 2023.

**PASSED, APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.**

**CITY OF CARLSBAD**

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**By: Dale Janway, Mayor**

**ATTEST:**

---

**Nadine Mireles, City Clerk**

**CITY OF CARLSBAD  
AGENDA BRIEFING MEMORANDUM**

**COUNCIL MEETING DATE: July 11, 2023**

<b>DEPARTMENT:</b> Executive	<b>BY:</b> Wendy Austin – Deputy City Administrator <i>WA</i>	<b>DATE:</b> July 3, 2023																
<b>SUBJECT:</b> Resolution increasing the contribution, from the City of Carlsbad (City), to the New Mexico Public Employees Retirement Association (PERA) for Municipal Police Plan 5																		
<b>SYNOPSIS, HISTORY and IMPACT (SAFETY AND WELFARE/FINANCIAL/PERSONNEL/INFRASTRUCTURE/ETC.):</b>  State Statute, NMSA 1978, Section 10-11-5, authorizes affiliated public employers of PERA to make contributions of up to seventy-five percent (75%) of its employees' member contributions.  In an effort to recruit, hire, and retain law enforcement officers, the City is recommending a sixty-two, point seventy-seven percent (62.77%) pick-up for employees in PERA Municipal Police Coverage Plan 5. This increase is summarized below:																		
<table border="1" style="margin: auto; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;"></th> <th style="width: 25%;">Employee</th> <th style="width: 25%;">City</th> <th style="width: 25%;">Total</th> </tr> </thead> <tbody> <tr> <td>Proposed</td> <td style="text-align: center;">7.00%</td> <td style="text-align: center;">31.95%</td> <td style="text-align: center;">38.95%</td> </tr> <tr> <td>Current</td> <td style="text-align: center;">15.80%</td> <td style="text-align: center;">21.15%</td> <td style="text-align: center;">37.95%</td> </tr> <tr> <td>Increase (Decrease)</td> <td style="text-align: center;">(8.80%)</td> <td style="text-align: center;">10.80%</td> <td style="text-align: center;">1.00%</td> </tr> </tbody> </table>				Employee	City	Total	Proposed	7.00%	31.95%	38.95%	Current	15.80%	21.15%	37.95%	Increase (Decrease)	(8.80%)	10.80%	1.00%
	Employee	City	Total															
Proposed	7.00%	31.95%	38.95%															
Current	15.80%	21.15%	37.95%															
Increase (Decrease)	(8.80%)	10.80%	1.00%															
The employees in PERA Municipal Police Coverage Plan 5, include: The Police Chief, the Assistant Police Chief, Captains, Lieutenants, Corporals, Detectives, Evidence Technicians, Patrolman, and Sergeants.																		
If the resolution is approved by the Carlsbad City Council, the resolution will then go before the PERA Board meeting to be held in August 2023. If the PERA Board approves the contribution adjustments, the updated contributions will be implemented the first full pay-period in September 2023.																		
<b>DEPARTMENT RECOMMENDATION:</b> Approve the resolution to increase the City's contribution for employees in PERA Municipal Police Plan 5																		
<b>BOARD/COMMISSION/COMMITTEE ACTION:</b>																		
<input type="checkbox"/> P&Z <input type="checkbox"/> Lodgers Tax Board <input type="checkbox"/> Cemetery Board <input 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"/> Budget Committee																		
<b>Reviewed by:</b> City Administrator: <u>/s/John Lowe</u> Date: <u>07/06/2023</u>																		

**ATTACHMENTS:**

- Resolution Authorizing 62.77% Pick-up of PERA Member Contributions

**RESOLUTION NO. 2023-33**

**RESOLUTION AUTHORIZING 62.77% PICK-UP  
OF PERA MEMBER CONTRIBUTIONS**

WHEREAS, NMSA 1978, Section 10-11-5, authorizes affiliated public employers to be responsible for making contributions of up to seventy-five percent of its employees' member contributions to the Public Employees Retirement Association (PERA) under certain conditions;

WHEREAS, the City of Carlsbad authorizes an increased employer pick-up for the employees covered under the Municipal Police Coverage Plan 5 in an ongoing effort to recruit, hire and retain law enforcement officers;

WHEREAS, the City of Carlsbad desires to make sixty two point seventy seven percent (62.77%) of employee contributions for its municipal employees covered under the PERA Municipal Police Coverage Plan 5;

WHEREAS, pursuant to NMSA 1978, Section 10-11-5, this Resolution is irrevocable (subject to the exceptions set forth in Section 10-11-5) and shall apply to all City of Carlsbad employees covered under the PERA Municipal Police Coverage Plan 5;

THEREFORE, BE IT RESOLVED, that the City of Carlsbad, pursuant to NMSA 1978, Section 10-11-5, hereby elects to be responsible for making contributions of sixty two point seventy seven percent (62.77%) of employees' member contributions to the Public Employees Retirement Association for its municipal employees that are covered under the PERA Municipal Police Coverage Plan 5. To take effect the first full pay period in September of 2023.

**PASSED, APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.**

**CITY OF CARLSBAD**

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**By: Dale Janway, Mayor**

**ATTEST:**

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**Nadine Mireles, City Clerk**



CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: July 11, 2023

<b>DEPARTMENT:</b> Legal	<b>BY:</b> Denise Madrid Boyea <i>DB</i>	<b>DATE:</b> June 30, 2023
<b>SUBJECT:</b> Proposed Resolution requiring the removal of the ruins, rubbish, wreckage, debris or weeds at 2506 Primrose.		
<b>BACKGROUND, ANALYSIS AND IMPACT:</b> (Safety and Welfare/Financial/Personnel/Infrastructure/etc.) The property commonly known as 2506 Primrose is in a residential neighborhood near the intersection of Canal St. and Center St. There appears is no residence on the property but an old mobile home burned on this property in 2019 and a shed on the property appears to be occupied. There is an enormous amount of junk, trash, debris and rubble. The Eddy County Assessor's Office lists Norwest Bank NM as owning or having an interest in the property. The Assessor's records lists Norwest Bank NM's address as Albert Lopez K of S, 2306 Bonita St., Carlsbad, NM 88220 The property appears to be occupied by a male who is living in a shed and van. Code enforcement has been to the property. A verbal warning was given on 4/17/23. A Notice of Violation was mailed by certified mail to the owner on 5/8/23 at the address listed in the Assessor's records and on 6/6/23 to the physical address. Code enforcement has spoken to occupants in person regarding complaints and the code violations. The property has been inspected by the City Code Enforcement Office and the Fire Marshal. They found that the property remains out of compliance with applicable codes. The Fire Marshal found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends the property be cleaned and the weeds, trash and debris be removed. A resolution has been prepared which, if adopted, would require the property owner to remove all ruins, rubbish, wreckage, debris or weeds from the property within thirty days of the service of the resolution. On June 23, 2023, a certified letter was sent to Norwest Bank NM at an incorrect address and another letter was mailed to the correct address on June 30, 2023 to the address on the records of the County, which invited them to attend the meeting and speak with Council about the property.		
<b>DEPARTMENT RECOMMENDATION:</b> Adopt the proposed resolution.		
<b>BOARD/COMMISSION/COMMITTEE ACTION:</b> N/A		
<input type="checkbox"/> P & Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board
<input type="checkbox"/> Museum Board	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board
<input type="checkbox"/> Library Board	<input type="checkbox"/> North Mesa Board	<input type="checkbox"/> _____ Committee
		} <input type="checkbox"/> APPROVED
		} <input type="checkbox"/> DISAPPROVED

**Reviewed by:**  
**City Administrator** /s/John Lowe **Date:** 07/06/2023

**ATTACHMENT(S):**  
Proposed Resolution with Attachments  
Photographs  
Letter to Norwest Bank NM – Albert Lopez K of S, on June 23, 2023 & June 30, 2023

**RESOLUTION NO. 2023-34**

**A RESOLUTION FINDING 2506 PRIMROSE STREET TO BE COVERED WITH RUINS, RUBBISH, WRECKAGE, DEBRIS, AND/OR WEEDS AND REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, DEBRIS, AND/OR WEEDS**

WHEREAS, the records of the Eddy County Assessor's Office show **Norwest Bank NM c/o Albert Lopez** to be the owners of or to have an interest in the property commonly known as **2506 Primrose Street**, Carlsbad, Eddy County, New Mexico, and more particularly described as:

Subd: COUNTRYSIDE ESTATES PHASE 1 Lot: 3 Block: 1

hereinafter referred to as "Property", and

WHEREAS, the Property has been inspected by the Carlsbad Code Enforcement Officer and the City Fire Chief; and

WHEREAS, the Code Enforcement Officer and the Fire Chief found that the Property has not been adequately maintained; and

WHEREAS, the Property contains a large amount of ruins, rubbish, wreckage, and/or debris, and some weeds; and

WHEREAS, the Property is in an unsafe condition and constitutes a hazard to the surrounding properties, residents and passersby; and

WHEREAS, the Code Enforcement Officer found that the specific violations, under Code of Ordinances of the City of Carlsbad, at the Property include, but are not limited to those listed on the attached Exhibit "A"; and

WHEREAS, the City Fire Chief has inspected the Property and found that the specific violations at the Property under Fire Code include, but are not limited to those listed on the attached Exhibit "B"; and

WHEREAS, the Property and all ruins, rubbish, wreckage, debris, and weeds are a menace to the public comfort, health, peace, and safety and require removal forthwith;

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Carlsbad, Eddy County, New Mexico that:

1. A copy of this Resolution shall be served on the record owner, as shown by the real estate records of the County Clerk, occupants, or agents in charge of the Property. Such service shall be in person if such a person can be found within the City of Carlsbad, New Mexico after a reasonable search.

2. If a record owner, occupant, or agent in charge of the Property cannot be located within the City of Carlsbad, New Mexico, notice shall be by posting at the Property and by publishing this Resolution one time in a newspaper in general circulation in the City of Carlsbad.

3. Within ten days of either the receipt of a copy of this Resolution or the posting and publishing of this Resolution, the owner, occupant, or agent in charge of the Property shall either:

- A. Commence removing all ruins, rubbish, wreckage, debris, and weeds from the premises; or
- B. File a written objection with the Carlsbad Municipal Clerk at 101 N. Halagueno, Carlsbad, New Mexico 88220 and request a hearing before the City Council.

4. If a written objection is filed as required, the City Council shall proceed as directed by Chapter 22, Article II of the Code of Ordinances, City of Carlsbad, New Mexico.

5. **The removal of the ruins, rubbish, wreckage, debris, and weeds shall:**
- A. Begin immediately;**
  - B. Proceed properly and with diligence; and**
  - C. Be completed in a timely manner;**
  - D. BUT IN NO CASE SHALL SUCH WORK TAKE LONGER THAN THIRTY (30) DAYS FROM THE DATE THE RESOLUTION WAS SERVED UNLESS THE CARLSBAD CITY COUNCIL CONSENTS IN WRITING TO AN EXTENSION.**

6. Any removal of the ruins, rubbish, wreckage, debris, or weeds shall leave the property from which the materials have been removed in a clean, level, and safe condition, suitable for further occupancy or construction and with all excavations filled.

7. If the owner, occupant, or agent in charge does not commence the removal of the stated items, and if no written objection is filed as required, or if the removal of the stated items is not completed in a timely manner, the City may remove the ruins, rubbish, wreckage, debris, and/or weeds at the cost and expense of the owner.

8. The reasonable cost of such a removal shall constitute a lien against the ruins, rubbish, wreckage, debris, and/or weeds so removed and against the lot or parcel of land from which it was removed.

9. The City Clerk shall make out, sign, attest, file, and record in the office of the Eddy County Clerk's Office, a claim of lien upon the described premises.

10. The lien shall bear interest at the rate of twelve percent (12%) per annum from the date of filing until paid, together with reasonable attorney's fees for the foreclosure of the same. The lien shall be foreclosed in any manner proved by an applicable state lien foreclosure law.

INTRODUCED, PASSED, ADOPTED, AND APPROVED this 11<sup>th</sup> day of July, 2023.

\_\_\_\_\_  
DALE JANWAY, MAYOR

ATTEST:

\_\_\_\_\_  
NADINE MIRELES, CITY CLERK



CITY OF CARLSBAD

Planning, Engineering, and Regulation Department

114 S. Halagueno, PO Box 1569

Carlsbad, New Mexico 88220

Phone (575) 885-1185, Fax (575) 628-8379

CODE ENFORCEMENT REPORT

Case Number: CE- 23 - 121
Date of Complaint: 4/17/23
Complaint Taken By: EHarrell
Complainant Name: Anon
Phone Number:

Complaint Location: 2506 Primrose

Details of Complaint: Junk/trash/debris and burned trailer
Living in shed and van

Primary Structure: Residential, Commercial, Occupied, Vacant, Secured, Unsecured, No structure on property
Photographs Taken (attach): Yes, No
CE District: North, South

Narrative: An old mobile home burned on this property on 11/6/2019 (fire report included). Man on property has moved into a shed. No water since October 13th, 2020. Fire dept pulled electric meter during house fire. Another call came in for a fire on 11/17/2019 (fire report included) he was burning rubble in a pile. The property is covered in junk/trash/debris. As of 6/6/23 a second letter was sent. Property is still out of compliance. Will submit for a condemnation.

Disposition of Case:
No Basis for Complaint:
Mailed Notice of Violation/Date: Certified on 5/8/23 to owner on Assessors, Certified on 6/6/23 to physical address
Door Hanger Notice of Violation/Date:
Verbal Warning/Date: 4/17/23
Referred to Other Agency:
Other: Will ask fire marshal for an interoffice memo and building department for inspection of the other structures

Code Enforcement Signature: EHarrell
Printed Name: EHarrell
Date: 5/8/23

Report Information:
Entered into Database on:
By:
Page \_\_\_ of \_\_\_

15 CITY OF CARLSBAD

Planning, Engineering, and Regulation Department  
Code Enforcement Division  
101 N. Halagueno St., PO Box 1569  
Carlsbad, New Mexico 88220  
Phone (575) 885-1185, Fax (575) 628-8379



NOTICE OF CODE VIOLATION

Date: 6/6/2023  
Case: CE- 23 - 121  
Address: 2506 Primrose  
Carlsbad, New Mexico 88220

Name and Address of Property Owner or Occupant\*  
4-158-129-159-282  
NORWEST BANK NM  
LOPEZ, ALBERT - K OF S  
2306 BONITA ST  
CARLSBAD, NM 88220-6165

FINAL NOTICE

The following violation(s) of the Carlsbad Code of Ordinances have been identified as existing on your property. It is your responsibility, if you have any control over the property, to take immediate action to correct these violation(s), even if you do not actually occupy the property or if the property is occupied by others.

COMPLETION OF CORRECTIVE ACTION(S) IS REQUIRED NO LATER THAN: 6/16/2023

CORRECTIVE ACTION TO BE TAKEN (WHAT YOU SHOULD DO) BEFORE DEADLINE:

A letter was sent to who is on the Eddy County Assessor's website, (Norwest Bank/K/S Albert Lopez): The letter came back. Per our conversation: Please clean all junk/trash/debris/building material. No living in the sheds. You have had no water since October 13th 2020. This property is not habitable to be living on. A condemnation will be submitted for clean up at the deadline above. Thank you for your compliance. Any questions call 575-885-1185 ext. 2239

CODE VIOLATED:

WASTE STORAGE (CCO 22-03): Any land, within the city, used for open storage of junk, trash or debris is hereby declared to be a public nuisance, and such use of land is prohibited in the city.

CODE VIOLATED:

No living in sheds

CODE VIOLATED:

Note: Specific details regarding the applicable ordinance may be obtained from the Code Enforcement Division Office listed above. The complete Code of Ordinances may be found on the City of Carlsbad website: [www.cityofcarlsbadnm.com](http://www.cityofcarlsbadnm.com) or in the office of the City Clerk.


The required Corrective Active listed above must be initiated immediately and be completed no later than the deadline. Failure to comply with the Ordinances of the City of Carlsbad is subject to specific actions. If the owner of the property cannot be located or refuses compliance, the City may initiate condemnation procedures under Chapter 22, Article II, of the Carlsbad Code of Ordinances to remedy the violation. Under this procedure the City will file a claim of lien against the premises in the amount of the expenditure by the City to correct each violation. Optionally, the City may seek a judgment in Municipal Court for the maximum penalty allowed by ordinance for violation of municipal ordinances. Unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, a fine of not more than \$500 or imprisonment for not more than 90 days, or both, plus court costs, may be imposed by the court.

\*Property and owner information is received from the Eddy County Assessor's Office, Occupant, or City records.

*EHarrell*  
Code Enforcement Signature

EHarrell  
Printed Name

6/6/2023  
Date

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature X <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span></p>																
<p>1. Article Addressed to:</p> <p><i>Norwest BANK Lopez, Albert 2506 Primrose Carlsbad, NM 88220</i></p>  <p>9590 9402 2177 6193 9103 03</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>																
<p>2. Article Number (Transfer from service label)</p> <p>7017 1070 0000 6425 3942</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™																
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery																
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise																
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™																
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery																
<input type="checkbox"/> Insured Mail																	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 <span style="float: right;">Domestic Return Receipt</span></p>																	

U.S. Postal Service™  
**CERTIFIED MAIL® RECEIPT** *EHS*  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)


OFFICIAL USE

<p>Certified Mail Fee \$ _____</p> <p>Extra Services &amp; Fees (check box, add fee as appropriate)</p> <p><input type="checkbox"/> Return Receipt (hardcopy) \$ _____</p> <p><input type="checkbox"/> Return Receipt (electronic) \$ _____</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery \$ _____</p> <p><input type="checkbox"/> Adult Signature Required \$ _____</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery \$ _____</p> <p>Postage \$ _____</p> <p><b>Total Postage and Fees</b> \$ _____</p>	<p>Postmark Here</p>
<p>Sent to <i>Norwest Bank Albert Lopez</i></p> <p>Street and Apt. No., or PO Box No. <i>2506 Primrose</i></p> <p>City, State, ZIP+4® <i>Carlsbad NM 88220</i></p>	

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. ADD ATTACHED LINE.

CERTIFIED MAIL



7017 1070 0000 6425 3942  
7017 1070 0000 6425 3942

15 CITY OF CARLSBAD

Planning, Engineering, and Regulation Department  
Code Enforcement Division  
101 N. Halagueno St., PO Box 1569  
Carlsbad, New Mexico 88220  
Phone (575) 885-1185, Fax (575) 628-8379



NOTICE OF CODE VIOLATION

Date: 5/8/2023  
Case: CE- 23 - 121  
Address: 2506 Primrose St.  
Carlsbad, New Mexico 88220

Name and Address of Property Owner or Occupant\*  
4-158-129-159-282  
NORWEST BANK NM  
LOPEZ, ALBERT - K OF S  
2306 BONITA ST  
CARLSBAD, NM 88220-6165

The following violation(s) of the Carlsbad Code of Ordinances have been identified as existing on your property. It is your responsibility, if you have any control over the property, to take immediate action to correct these violation(s), even if you do not actually occupy the property or if the property is occupied by others.

**COMPLETION OF CORRECTIVE ACTION(S) IS REQUIRED NO LATER THAN: 5/18/2023.**  
**CORRECTIVE ACTION TO BE TAKEN (WHAT YOU SHOULD DO) BEFORE DEADLINE:**  
Please clean up all the outside storage, junk/trash/debris from this property. No living in sheds and vans on the property. This will be your only notice before a condemnation is submitted for condemnation. Thank you for your compliance. Any questions call 575-885-1185 ext. 2239

**CODE VIOLATED:**  
WASTE STORAGE (CCO 22-03): Any land, within the city, used for open storage of junk, trash or debris is hereby declared to be a public nuisance, and such use of land is prohibited in the city.

**CODE VIOLATED:**  
DILAPIDATED BUILDINGS AND STRUCTURES  
Sec 22-32 - Determination; resolution requiring removal  
Whenever any building or structure is ruined, damaged and dilapidated, or any premises covered with ruins, rubbish, wreckage, debris or weeds, the city council may, by resolution, find that the ruined, damaged and dilapidated building or structure or weed covered premises is a menace to the public comfort, health, peace or safety and require the removal from the city of the building, structure, ruin, rubbish, wreckage, debris or weeds

**CODE VIOLATED:**

Note: Specific details regarding the applicable ordinance may be obtained from the Code Enforcement Division Office listed above. The complete Code of Ordinances may be found on the City of Carlsbad website: [www.cityofcarlsbadnm.com](http://www.cityofcarlsbadnm.com) or in the office of the City Clerk.

The required Corrective Active listed above must be initiated immediately and be completed no later than the deadline. Failure to comply with the Ordinances of the City of Carlsbad is subject to specific actions. If the owner of the property cannot be located or refuses compliance, the City may initiate condemnation procedures under Chapter 22, Article II, of the Carlsbad Code of Ordinances to remedy the violation. Under this procedure the City will file a claim of lien against the premises in the amount of the expenditure by the City to correct each violation. Optionally, the City may seek a judgment in Municipal Court for the maximum penalty allowed by ordinance for violation of municipal ordinances. Unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, a fine of not more than \$500 or imprisonment for not more than 90 days, or both, plus court costs, may be imposed by the court.

\*Property and owner information is received from the Eddy County Assessor's Office, Occupant, or City records.

  
Code Enforcement Signature

EHarrell  
Printed Name

5/8/2023  
Date





Jun 20, 2023 at 3:48:06 PM



Jun 20, 2023 at 3:48:15 PM



Jun 20, 2023 at 3:48:31 PM



Jun 20, 2023 at 3:45:14 PM



Jun 20, 2023 at 3:44:31 PM



Jun 20, 2023 at 3:44:19 PM





2506 PRIMROSE





2506 PRIMROSE



May 8, 2023 10:50:56 AM  
2506 Primrose Street  
Carlsbad  
Eddy County  
New Mexico



May 8, 2023 10:50:44 AM

2504 Primrose Street

Carlsbad

Eddy County

New Mexico

City Of Carlsbad  
Inter-Office Memorandum

Dale Janway Mayor

John Lowe, City Manager

Date: 17 April 2023

To: Denise Madrid Boyea, City Attorney

From: Ken Ahrens, Fire Chief

Re: 2506 Primrose

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On April 17, 2023, I inspected a property located at 2506 Primrose. The amount of flammable materials unsecured and unprotected on this property presents an *extreme* fire hazard for responding Firefighters and emergency personnel. I recommend that the property be cleaned up and all trash, debris, and other loose items be removed under the following fire codes.

The International Fire Code, 2015 edition states:

**Section 110 Unsafe Buildings**

**110.1 General.** If during the inspection of a building or structure or any building system, in whole or part, constitutes a clear and inimical threat to human life, safety or health, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.

**110.4 Abatement.** The owner, the owner's authorized agent, operator or occupant of a building or premises deemed unsafe by the fire code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition, or other approved corrective action.

**Section 304 Combustible Waste Material**

**304.1 Waste accumulation prohibited.** Combustible waste material creating a fire hazard shall not be allowed to accumulate in buildings or structures or upon premises.

**304.1.1 Waste material.** Accumulations of wastepaper, wood, hay, straw, weeds, litter, or combustible or flammable rubbish of any type shall not be permitted to remain on a roof or in any court, yard, vacant lot, alley, parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle, or other similar structure.

**304.1.2 Vegetation.** Weeds, grass, vines or other growth that is capable of being ignited and endangering property, shall be cut down and removed by the owner or occupant of the premises.

**304.2 Storage.** Storage of combustible rubbish shall not produce conditions that will create a nuisance or hazard to the public health, safety, or welfare.

#### **Section 313 Fueled Equipment**

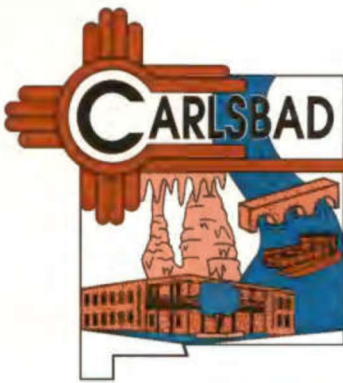
**313.1.1 Removal.** The fire code official is authorized to require removal of fueled equipment from locations where the presence of such equipment is determined by the fire code official to be hazardous.

#### **Section 315 Miscellaneous Combustible Materials Storage**

**315.3 Outside Storage.** Outside storage of combustible materials shall not be located within 10 feet of a property line.

A handwritten signature in black ink, appearing to read 'Ken Ahrens', with a long horizontal flourish extending to the right.

Ken Ahrens, Fire Chief  
Carlsbad Fire Department



DALE JANWAY  
MAYOR

Post Office Box 1569  
Carlsbad, NM 88221-1569  
(575) 887-1191  
1-800-658-2713  
www.cityofcarlsbadnm.com

JOHN N. LOWE  
CITY ADMINISTRATOR

June 30, 2023

Norwest Bank NM  
c/o Albert Lopez  
2306 Bonita St.  
Carlsbad, NM 88220

RE: Dangerous Premises at the property known as 2506 Primrose St., Carlsbad, NM

Dear Mr. Lopez:

According to the records of the Eddy County Assessor's Office, you are the owners or have an interest in the property commonly known as **2506 Primrose St., Carlsbad, NM**. The property has been inspected by the City Code Enforcement Office and the Fire Chief. They have found the property to be in violation of a number of health, safety, and building laws.

Because of the condition of the property, a Resolution has been prepared requiring the cleaning of the property. The Carlsbad City Council will consider passing that Resolution at its meeting on **Tuesday, July 11, 2023 at 6:00 PM**. That meeting will be held in the Council Chambers in the Janell Whitlock Municipal Complex at 114 S. Halagueno St., Carlsbad, NM. You are encouraged to come to the meeting and speak with Council about the property. A draft of the Resolution is included with this letter.

If the Council adopts the Resolution, you must begin removing the ruins, rubbish, wreckage, debris, and weeds from the property within ten days and complete the work within thirty days. The property must be left in a clean, level, and safe condition, suitable for further occupancy or construction and with all excavations filled. If the work is not done, the City may do the work itself or hire someone to do the work. All reasonable costs to the City for such work will become a lien against the property. The City may then foreclose the lien as allowed by law.

If you have any questions regarding this matter, please contact me at (575) 887-1191, or at the Municipal Building, 101 N. Halagueno, Carlsbad, NM 88220.

Sincerely,

Denise Madrid Boyea  
City Attorney

Enclosure

COUNCILORS

Ward 1  
EDDIE T. RODRIGUEZ  
LISA A. ANAYA FLORES

Ward 2  
JEFF FORREST  
J J CHAVEZ

Ward 3  
KARLA NIEMEIER  
JUDI WATERS

Ward 4  
MARK WALTERSCHEID  
WESLEY A. CARTER

# Committee Reports

# Adjourn





June 30, 2023

Mr. John Lowe  
City Administrator  
City of Carlsbad

Dear Mr. Lowe:

The following report is submitted to the City of Carlsbad to update the progress and status of the Carlsbad MainStreet Project for June 2023, per the Downtown Revitalization Services Contract. With this report, MainStreet is enclosing an invoice requesting the monthly allocation from the City of Carlsbad for \$7,500.00 based on the total annual services contract of \$90,000.

**NEW MEXICO MAIN STREET (NMMS) REQUIRED MEETINGS (MAINSTREET EXECUTIVE DIRECTOR):**

- New Mexico MainStreet Roundtable- 6/21 Topic: Avoiding burnout
- Meeting with Amy Barnhart, Amy Bell and Julie Blanke for Fall Conference planning

**EXECUTIVE DIRECTOR BOARDS AND COMMITTEES:**

- In addition to MainStreet activities, the Carlsbad MainStreet Executive Director serves on the following boards and committees related to downtown promotion and economic development and attends weekly and monthly meetings to support their priorities and activities:

*Carlsbad Area Art Association, Carlsbad Community Concerts Association, Cavern Theater Task Force, Carlsbad Downtown Lions Club, Pearl of the Pecos Committee, Chamber of Commerce Tourism Council, Chamber of Commerce Non-Profit Council, Chamber of Commerce Age Friendly Council, Eddy County DWI Juneors Fine Arts and Acquisition Committee (FAAV), Juneors Beautification Committee, Anti-Drug and Gang Coalition, Rotary, Chamber of Commerce, City Council, Eddy County Commission, Walter Gerrell's Civic Center Advisory Board, and Carlsbad Department of Development*

**ECONOMIC DEVELOPMENT-MAINSTREET STYLE**

***MainStreet Business/Merchants Economic Vitality***

- Kat & Eynid, along with board member Mary Garwood visited all businesses downtown within the event footprint for CavernFest this year
- Co-hosted Desert Daze Yoga Studio business grand opening in the MainStreet district with the Chamber of Commerce
- Met with owners of Mimi's Boutique and Nouveau Esthetics, both new businesses which opened in the MainStreet District

***Downtown MainStreet Rejuvenation Project***

- The local Keep Carlsbad Beautiful program submitted their annual Clean and Beautiful grant application to the state program and included funding for the remaining benches and trash cans for the district



### ***MainStreet***

#### ***Board Meeting – 4th Thursday of each month***

- June – Cancelled board meeting for the month of June, due to CavernFest
- June 1<sup>st</sup>& 8<sup>th</sup>- CavernFest Planning Committee Meetings
- June 22<sup>nd</sup>- CavernFest Debrief Meeting

### ***Pearl of the Pecos***

- Steering Committee Meeting- June 26<sup>th</sup>
- Sites Southwest Site follow up meeting from Site Visit #2- 6/21
- Full report of POP work can be found in May report

### ***City of Carlsbad***

- June 1<sup>st</sup>- Directors CavernFest planning meeting
- June 5<sup>th</sup>- Meeting with Mayor and John Lowe
- June 15<sup>th</sup>- Directors 4<sup>th</sup> of July Planning Meeting

### ***Eddy County***

- Submitted Q2 Report

### ***Chamber of Commerce***

- Ribbon Cutting for Desert Daze Yoga Studio Downtown

### ***Department of Development***

- N/A

## **HAPPENING AT THE MAINSTREET OFFICE**

### ***Staff at the MainStreet office***

- Victoria Martinez, our Farmers Market Manager has started working more hours with the market starting this month and holding office hours to meet with vendors and catch up on admin work
- Follow up calls with Amy Barnhart, Amy Bell and Julie Blanke in regard to the state conference to be held in Carlsbad this Fall

### ***Reporting***

- All monthly and quarterly reports have been submitted to the City and County

### ***Speaking Opportunity***

- KCC Community Forum- CavernFest & Downtown Farmers & Makers Market
- Victoria Martinez recorded the Farmers & Makers Market ads for Carlsbad Radio

## **OTHER MAINSTREET ED MEETINGS AND ACTIVITIES:**



- This month we held our signature annual event “CavernFest” in partnership with the City of Carlsbad. This years CavernFest was the 6<sup>th</sup> year of the event and probably one of the best attended. A lot of planning and preparation from the staff and board of directors went into this event. There were over 15,000 people in attendance, 50+ vendors, 25+ food trucks and so much more free entertainment and activities for attendees.
- This month also was the start of our Farmers and Makers Market season. We kicked the season off with a “Third Thursday” Summer Celebration event. We had over 50 vendors and non-profits booths in attendance, there will be 4 Third Thursdays this market season and 16 regular market nights. Our market is held on Thursdays from 5:30-7:30pm

## **PROMOTION FOR MAINSTREET and CARLSBAD**

### ***New Mexico Magazine***

- Full page CavernFest ad in June issue as well as digital and newsletter ads running

### ***Focus Magazine***

- Ad & Director’s write up submitted for Focus on Carlsbad Summer edition

### ***Texas Monthly***

- CavernFest print ad in June edition & newsletter

### ***Carlsbad Local***

- Market ads running

### ***Current-Argus***

- N/A

### ***Artesia Radio***

- Summer events advertising starting June

### ***Carlsbad Radio***

- Summer events advertising starting

### ***KCC Radio***

- Community Forum on CavernFest & Market season

If you have any questions, please feel free to contact me.

Respectfully,

***Kat Davis***

Kat Davis  
Executive Director