REGULAR MEETING OF THE CITY COMMISSION
MONDAY, SEPTEMBER 9, 2013 @ 5:30 P.M.
CITY COMMISSION CHAMBERS, 214 S. LOVE STREET

Present and answering roll call: Mayor Drummond, Commissioners Trujillo, Granath, and Benge.

Also present: City Manager James Williams, Assistant City Manager Jared Cobb, Finance Director Mashell Stephens, City Clerk Carol Ann Hogue, Lieutenant David Rodriguez and City Attorney Patrick McMahon.

Not present: Commissioner Gandy, Administrative Assistant Imelda Gutierrez and Chief of Police Danny Bryant

Call to Order: The meeting was called to order by Mayor Drummond at 5:30 p.m.

Invocation: Mayor Drummond gave the invocation

Pledge of Allegiance: Mayor Drummond led the pledge

Approval of Agenda: Mayor Drummond asked for a motion to approve the agenda as submitted. Commissioner Trujillo so moved. Commissioner Benge seconded. Motion was approved.

Approval of the Regular Minutes of August 26, 2013: Mayor Drummond asked for a motion for approval of the regular minutes of August 26, 2013. Commissioner Benge so moved. Commissioner Trujillo seconded. Motion was approved.

NON-ACTION ITEMS:

Discussion of Ordinance 512- Off Street Parking: Mayor Drummond read the Ordinance 512 which indicates:

- Prohibit commercial vehicle parking in the front, side, or rear yard setbacks in any residential zone.
- No more than 40% of the yard setbacks can be dedicated to off-street parking.
- Bare earth or grass parking is prohibited. This ordinance specifies allowable types of parking surfaces.
- Addresses recreational vehicle parking and uses in a residential zone.

The affected areas are Zone A-Residential Zone & B-Multi-Family Zone.

City Manager James Williams stated that if approved, this ordinance will be advertised and sent letters to all homeowners in Zone A & B. If requested by Commission, this item will be on the next agenda as an action item to begin ordinance adoption process. No action was taken.

Discussion of Ordinance 513- Annexation & Zoning Classification: City Manager James Williams stated that the Ordinance 513 reads as follows:

- When property is annexed into the City, it is given a designation as Zone A-Single Family. The amendment will allow the Planning & Zoning Board to recommend assignment of zoning in conformance with the comprehensive plan. If requested by Commission, it will be placed on the next agenda as an action item so the ordinance adoption process can begin. An individual has requested to annex in 26 acres. No action was taken.

Discussion of Ordinance 514- Industrial Zone Changes: Mayor Drummond read the amendment on Ordinance 514 which will read as follow:

- Limits residential use and mobile trailers except in certain circumstances.
- Requires review by the Fire Chief for recommendations for uses not typically allowed in the Industrial Zone.

If requested by the Commission, it will be placed on the next agenda as an action item so the ordinance adoption process can begin. No action taken.

Discussion of Municipal Code 5.40- Peddlers, Solicitors & Canvassers: City Manager James Williams stated that the City has experienced issues regarding Chapter 5.40 and recommends for possible amendment of this Chapter. Mr. Williams suggested increasing the Peddler's Fees. Mayor Drummond suggested to Mr. Williams to modify and amend this Chapter and bring back to the Commission. No action was taken.

ACTION ITEMS:

Consideration of Approval of Resolution 2013-1: ICIP 2014-2019: Mayor Drummond called for a motion to approve the resolution 2013-1: ICIP 2014-2019. The Department of Finance and Administration strongly encourages municipalities to develop a 5-year Infrastructure Capital Improvement Plan (ICIP). This document provides an orderly process to plan for the replacement, repair, acquisition and improvement of equipment and infrastructure. The approval of the Resolution 090913-01 and 2015-2019 ICIP will allow the City to apply for state capital outlay funds, grants, and loans. Commissioner Trujillo so moved. Commissioner Benge seconded. Motion was approved.

Consideration of Approval of Award of Bid – Uniform Cleaning: Mayor Drummond called for a motion to approve the Award of Bid – Uniform Cleaning. City Manager James Williams mentioned that at the request of the Commission, the City re-advertised the bid solicitation for uniform cleaning. The bid was awarded to Klean Machine. Three bids were received from Hobbs Cleaners, Parkway Cleaners and Klean Machine. Commissioner Trujillo so moved. Commissioner Benge seconded. Motion was approved.

Consideration of Approval of Accounts Payables: Mayor Drummond called for a motion to approve the Accounts Payables. Commissioner Benge so moved. Commissioners Granath seconded. Motion was approved.

PUBLIC COMMENT:

Tim Boydston addressed the Commissioner concerning a fire hydrant that was removed on the corner of Ave Q and 6th St and would like to know when it will be replaced. Mayor Drummond asked Water Supervisor-Wyatt Duncan to take care of the issue. Mr. Duncan stated that he could get it replaced by the end of this month. Mr. Boydston voiced his concern about the sidewalk on his property. City Manager James Williams mentioned that they would have to look at the plat and see where the street easements were at. Mr. Boydston also voiced his concern about the kind of paint the City is using to paint crosswalks and streets. The paint is disappearing when it rains.

OTHER: Commissioner Benge mentioned that at the conference they had great speakers and she enjoyed the trip to Taos, NM. City Manager James Williams mentioned that the Main & Jefferson lots for bidding will be re-advertised due to no responses. The roof bid will also be re-advertised due to one being extremely high and the other not being completed.

ADJOURNMENT:

There being no further business the meeting adjourned at 6:00 p.m.

APPROVED: _____

DIXIE DRUMMOND, MAYOR

ATTEST: _____

CAROL ANN HOGUE, CITY CLERK

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☐ **INFORMATION** ☑ **OTHER ACTION**

SUBJECT: Discussion of Ordinance 516
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 16, 2013

STAFF SUMMARY:

Staff have prepared Ordinance 516 for Commission discussion and review. This ordinance will omit Chapter 5.40 of the Lovington Municipal Code. This particular chapter deals with solicitors, , canvassers, and peddlers.

In addition, this ordinance will amend Chapter 5.56. This chapter pertains to Transient and Itinerant Vendors. The amendments include adding solicitors only into this chapter, as well as language adjustments. Changes are identified in red font.

FISCAL IMPACT: *REVIEWED BY:* _____
(Finance Director)

ATTACHMENTS:

Ordinance 516

RECOMMENDATION:

Discussion only.

_____ **Department Head**

_____ **City Manager**

ORDINANCE NO. 516

An ordinance of the City of Lovington, New Mexico, omitting Title 5, Chapter 5.40 – Peddlers, Solicitors, and Canvassers and amending Title 5, Chapter 5.56 Transient and Itinerant Merchants and Vendors, of the Lovington Municipal Code.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LOVINGTON THAT TITLE 5, CHAPTER 5.40 BE AND HEREBY IS OMITTED FROM THE LOVINGTON MUNICIPAL CODE.

FURTHERMORE, TITLE 5, CHAPTER 5.56 BE AND HEREBY IS AMENDED AS FOLLOWS:

Title of Chapter 5.56 is amended to Solicitors, Transient, and Itinerant Merchants and Vendors.

5.56.010 Definitions.

For the purpose of this chapter, the following words and terms are defined:

"Group exhibit" means an association of five or more itinerant vendors under the auspices of a promoter, which association is formed fro the purpose of simultaneously conducting the business of the itinerant vendors upon a common site or premises.

"Promoter" means the person responsible for conducting a group exhibit.

"Solicitor" means a person who goes from door to door visiting single-family or multifamily dwellings and businesses, or who is on the streets and parking lots of the city for the purpose of taking or attempting to take orders for the sale of goods, wares, merchandise, services, subscriptions, or personal property of any nature. A solicitor may travel by foot, automobile, or any other type of conveyance. Solicitors may not travel door-to-door by commercial vehicle or semi-truck in any residential zone within the City.

"Temporary" means any such business transacted or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least thirty days in or upon which such business is to be operated or conducted.

"Transient" means such business of any itinerant vendor as may be operated or conducted by persons or by their agents or employees who have their headquarters in places other than the city, or who move stocks of goods or merchandise or sample thereof into the city with the purpose or intention of removing them or the unsold potion thereof away from the city before the expiration of thirty days.

"Transient merchant," "itinerant merchant," or "itinerant vendor" means any person, whether as owner, agent, consignee or employee and whether a resident of the city or

not, who engages in a temporary or transient business of selling, offering for sale, delivering or offering to deliver goods, wares and merchandise, or exhibiting the same for sale, or exhibiting the same for the purpose of taking orders for the sale thereof within the city, and who, for the purpose of taking orders for the sale thereof and who for the purpose of carrying on such business or conducting such exhibits either hires, rents, leases or occupies any building, structure, motor vehicle, tent, railroad box car, or enclosure in the city, or any room or space therein, or any other place whether enclosed or not including space upon any street, alley or other place within the city for the exhibition and sale of such goods, wares, merchandise, either privately or at public auction.

5.56.025 Solicitor License Required.

All persons, before entering into or upon a residential or business premises or the streets and parking lots within the City for the purpose of soliciting, shall make application with the City Clerk and furnish the following information:

A. The name, local and permanent addresses, social security number, driver's license number, age, race, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the applicant;
B. The names, addresses and telephone numbers of persons or the officers, directors or registered agents for service of the organization, group, association, partnership or corporation who is the employer of or entity represented by the applicant.
C. The nature of the goods, wares, merchandise, services, subscriptions, or personal property for which solicitations will be made;
D. Two (2) one-inch by two-inch photographs of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, showing the head and shoulders of the applicant in a clear and distinguishing manner;
E. The fingerprints of the applicant which will be taken and kept on file at the Lovington Police Department;
F. Completion of a statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance in the preceding five (5) years, the nature of the offense and the punishment or penalty assessed therefor.

5.56.030 Transient and Itinerant Merchants and Vendors Application – Contents.

Applicants for a license under this chapter shall file a written sworn application, no less than five nor more than thirty days prior to the time desired, signed by the applicant if an individual, by all partners if a partnership and by the president if a corporation, with the City Clerk showing:

A. The name of the person having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the city, the local address of the person while engaged in such business, the permanent address of such person, the capacity in which such person will act, that is whether as proprietor, agent or otherwise, the name and address of the person for whose account the business will be carried on, if any, and if a corporation, under the laws of what state the corporation incorporated;
B. The fingerprints of the person having the management or supervision of the applicant's business or, in lieu thereof, at least three letters of recommendation from reliable property owners in the county certifying as to the applicants good character and business responsibility or other evidence which establishes to the satisfaction of the City Clerk the good character and business responsibility of such person;
C. The place in the city where it is proposed that the applicant's business be carried on and the length of time during which it is proposed that such business shall be conducted as well as proof of ownership of the premises for this purpose and if all is satisfactory to the City Clerk;
D. The place, other than the permanent place of business of the applicant, where the applicant within the six months next preceding the date of the application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;
E. A statement of the nature, character, and quality of the goods, wares or merchandise to be sold of offered for sale by the applicant in the city, the invoice value and quality of such goods, wares and merchandise, whether they are proposed to be sold from stock in possession or by sample, at auction, or by direct sale ~~or by indirect sale or by taking orders for future delivery~~, where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time such application is filed;
F. A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers and, if required by the City Clerk, copies of all such advertising, whether handbills, circulars, newspaper advertising or otherwise, shall be attached to the application as exhibits thereto;
G. Whether or not the person having the management or supervision of the applicant's business has been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor;
H. Credentials from the person for whom the applicant proposes to do business authorizing the applicant to act as such representative;
I. Such other reasonable information as to the identify or character of the person having the management or supervision of the applicant's business or the method or plan of doing such business as the City Clerk may deem proper to fulfill the purpose of this chapter in the protection of the public good.

5.56.040 Investigation – Issuance.

Upon receipt of the application, the City Clerk shall cause an investigation of the person's business responsibility or moral character to be made as he or she deems necessary for the protection of the public good. If, as a result of the investigation, the character and business reputation appear to be satisfactory, the City Clerk shall so certify in writing and a license shall be issued by the City Clerk.

5.56.080 Recordkeeping.

A. The City Clerk shall keep a full record in his or her office of all licenses issued. Such record shall contain the number of the license, the date the license is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of such license, the place where such business may be carried on under such license and the name of the person authorized to carry on such business.
B. The City Clerk shall deposit the record of fingerprints of the licensee, together with the license number, with the Chief of Police. The Chief of Police shall report to the City Clerk any complaints against any person licensed under the provisions of this chapter and any convictions for a violation of this chapter. The City Clerk shall keep a record of all such licenses and of such complaints and violations.

5.56.120 Licenses – Posting required.

A. Transient or itinerant merchants and vendors issued a license under this chapter shall have their license prominently displayed in a conspicuous place on the premises where all sales exhibits are being conducted and shall remain so displayed so long as all merchandise is being sold in exhibit. Separate licenses but be obtained for each place of business and shall be prominently displayed in each business location.
B. Solicitors issued a license under this chapter shall carry his or her license with him or her at all times while engaged in soliciting and shall display the same to any person who demands to see such license while he or she is so engaged.

5.56.125 Prohibited Acts

It is unlawful for any person to:

A. Enter into or upon a residential or business premises or the streets and parking lots within the City under false pretense to sell any goods, wares, merchandise or services, or to solicit for any purpose;
B. Remain in or on any residential or business premises after having been requested to leave by the owner or occupant thereof;

C. Enter upon an residential or business premises to solicit, when the owner or occupant has displayed a “No Soliciting” or “No Solicitors” sign on such premises;
D. Engage in the practice of soliciting in the City without a license or operating as a transient or itinerant merchant or vendor without a license required by this chapter;
E. Use or possess an altered, forged or fictitious solicitor or transient or itinerant merchant or vendor license.

5.56.140 License – Revocation.

The licenses issued pursuant to this chapter may be revoked by the City Clerk after notice and hearing for any of the following:

A. Any fraud, misrepresentation or false statement contained in the application for the license;
B. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares, or merchandise;
C. Any violation of this chapter;
D. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude;
E. Conducting the business licensed under this chapter in any unlawful manner or in such a manner as to constitute a breach f the peace or to constitute a menace to the health, safety and general welfare of the public.

5.56.160 Appeals

Any person aggrieved by the decision of the City Clerk in regard to the denial of the application for a license as provided in Section 5.56.040 or in connection with the revocation of a license as provided for in Section 5.56.140, shall have the right to appeal to the city commission. Such appeal shall be taken by filing with the commission within fourteen days after notice of the decision by the City Clerk has been mailed to such person’s last known address, a written statement setting forth the grounds for the appeal. The city commission shall set the time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in Section 5.56.150 for notice of hearing on revocation. The order of the city commission on such appeal shall be final.

5.56.175 Exceptions – Solicitors

The provisions of this chapter shall not apply to solicitors:

A. Who visit any residence or business at the request or invitation of the owner or occupant thereof;

B. Who are unpaid members of any civic or charitable organization who have an approved means of identification provided by such organization or who upon request can provide identification of the relationship with the civic or charitable organization;
C. Who are route delivery persons who make deliveries at least once per week to regular customers and whose solicitation is incidental only to their regular deliveries and permanent local business entities whose periodic solicitations are incidental to their regular business activities.

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☑ **INFORMATION** ☐ **OTHER ACTION**

SUBJECT: Discussion of Traffic Speed on Gum Street
DEPARTMENT: Legislative
SUBMITTED BY: Scotty Gandy, Mayor Pro-Tem
DATE SUBMITTED: September 13, 2013

STAFF SUMMARY:

Commissioner Gandy has requested that the Commission discuss methods to slow traffic on the corner of Gum Street and Dearduff. He has received complaints regarding the speed of traffic, which includes heavy trucks to school buses.

FISCAL IMPACT: *REVIEWED BY:* _____
(Finance Director)

ATTACHMENTS:

Map of area

RECOMMENDATION:

_____
Department Head

_____
City Manager

Google earth

feet 1000

meters 300

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☑ **INFORMATION** ☐ **OTHER ACTION**

SUBJECT: Discussion of Street Light - Avenue K
DEPARTMENT: Legislative
SUBMITTED BY: Neil Granath, Commissioner
DATE SUBMITTED: September 17, 2013

STAFF SUMMARY:

Commissioner Granath has requested Commission discuss the addition of a street light on the 1000 block of West Avenue K.

FISCAL IMPACT: *REVIEWED BY:* _____
(Finance Director)

ATTACHMENTS:

Map of area.

RECOMMENDATION:

Discussion only.

_____ **Department Head**

_____ **City Manager**

Existing Street Light

Proposed Street Light

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☐ **INFORMATION** ☑ **OTHER ACTION**

SUBJECT: Approval of College Addition Final Plat
DEPARTMENT: Planning and Zoning Commission
SUBMITTED BY:
DATE SUBMITTED: September 10, 2013

STAFF SUMMARY:

Jesus Marquez has requested approval of the attached replat of Block 12 of the College Addition. This issue was recommended for approval by the Planning and Zoning Commission on September 4, 2013.

FISCAL IMPACT: *REVIEWED BY:* _____
(Finance Director)

ATTACHMENTS:

Final Plat

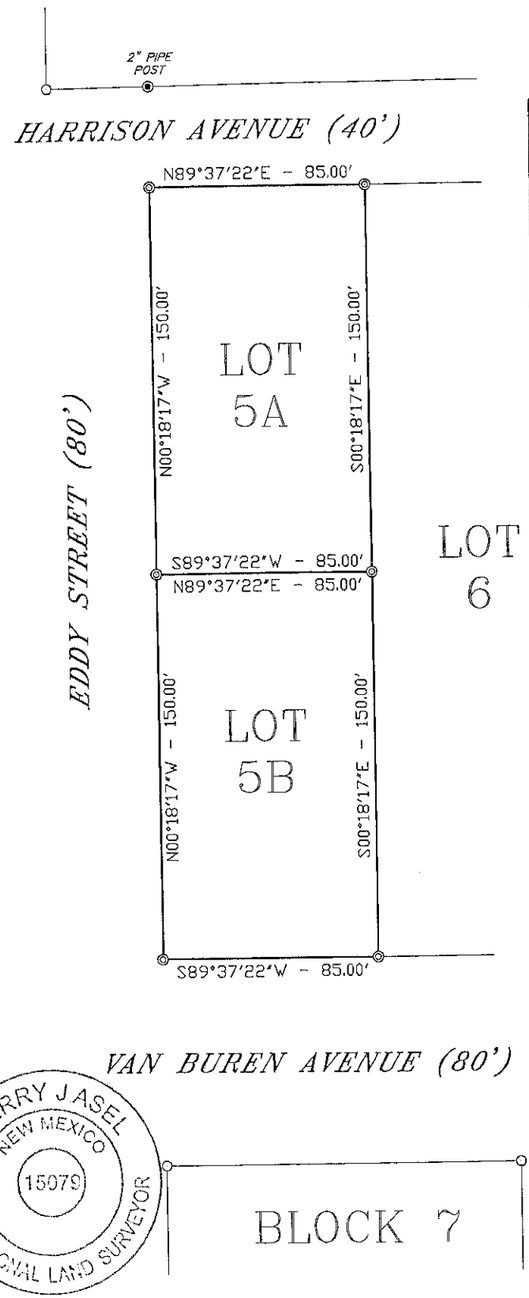
RECOMMENDATION:

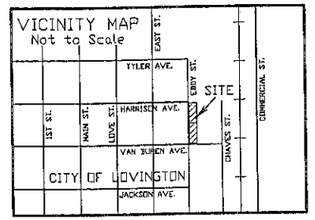
Motion to approve final plat.

_____ **Department Head**

_____ **City Manager**

REPLAT OF WEST 85' OF W/2 OF BLOCK 12 (AKA LOT 5, BLOCK 11) OF THE ASSESSORS PLAT OF THE COLLEGE ADDITION TO THE CITY OF LOVINGTON, LEA COUNTY, NEW MEXICO





CERTIFICATE OF MUNICIPAL APPROVAL:

I, JAMES WILLIAMS, CITY MANAGER FOR THE CITY OF LOVINGTON, LEA COUNTY, NEW MEXICO, DO HEREBY CERTIFY THAT THE FOREGOING PLAT IN THE CITY OF LOVINGTON, LEA COUNTY, NEW MEXICO WAS REVIEWED AND DEEMED COMPLIANT WITH THE MUNICIPAL REGULATIONS ON THIS _____DAY OF _____, 2013.

_____
JAMES WILLIAMS, CITY MANAGER

ACKNOWLEDGEMENT:

STATE OF NEW MEXICO)
)SS
COUNTY OF LEA)

ON THIS _____DAY OF _____, 2013. BEFORE ME PERSONALLY APPEARED _____ KNOWN TO ME TO BE THE PERSON(S) DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES:_____

_____
NOTARY PUBLIC

NOTES:
THESE TRACTS ARE BEING DIVIDED FROM A TRACT OF LAND CONVEYED TO JESUS MARQUEZ AND SANTOS SOTO AS DESCRIBED IN DEED BOOK 1831, PAGE 838 OF THE LEA COUNTY RECORDS.

BEARINGS SHOWN HEREON ARE FROM GPS MEASUREMENTS AND CONFORM TO THE NEW MEXICO COORDINATE SYSTEM "NEW MEXICO EAST ZONE" NORTH AMERICAN DATUM OF 1983. DISTANCES ARE U.S. FEET SURFACE VALUES.

LEGAL DESCRIPTION

LOT 5A:
BEGINNING AT A 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" SET AS THE NORTHWEST CORNER OF THIS LOT AND BEING THE NORTHWEST CORNER OF BLOCK 11 OF THE ASSESSORS PLAT OF COLLEGE ADDITION; THENCE N89°37'22"E – 85.00 FEET TO A 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" SET AS THE NORTHEAST CORNER OF THIS LOT; THENCE S00°18'17"E – 150.00 FEET TO A 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" SET AS THE SOUTHEAST CORNER OF THIS LOT; THENCE S89°37'22"W – 85.00 FEET TO A 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" SET AS THE SOUTHWEST CORNER OF THIS LOT; THENCE N00°18'17"W – 150.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.29 ACRES OF LAND MORE OR LESS.

LOT 5B:
BEGINNING AT A 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" SET AS THE NORTHWEST CORNER OF THIS LOT WHICH LIES S00°18'17"E – 150.00 FEET FROM THE NORTHWEST CORNER OF BLOCK 11 OF THE ASSESSORS PLAT OF COLLEGE ADDITION; THENCE N89°37'22"E – 85.00 FEET TO A 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" SET AS THE NORTHEAST CORNER OF THIS LOT; THENCE S00°18'17"E – 150.00 FEET TO A 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" SET AS THE SOUTHEAST CORNER OF THIS LOT; THENCE S89°37'22"W – 85.00 FEET TO A 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" SET AS THE SOUTHWEST CORNER OF THIS LOT; THENCE N00°18'17"W – 150.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.29 ACRES OF LAND MORE OR LESS.

DEDICATION:
SAID TRACTS ARE BEING SUBDIVIDED AND REPLATTED WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER(S) THEREOF, AND IS SURVEYED AND SUBDIVIDED AS THEY APPEAR ON THE PLAT AFFIXED HERON. ALL AREAS OF LAND SHOWN FOR PUBLIC USE, INCLUDING STREETS AND ALLEYS, ARE HEREBY DEDICATED TO THE PUBLIC USE.

_____ _____
JESUS MARQUEZ SANTOS SOTO

ACKNOWLEDGEMENT:

STATE OF NEW MEXICO)
)SS
COUNTY OF LEA)

ON THIS _____DAY OF _____, 2013. BEFORE ME PERSONALLY APPEARED _____, KNOWN TO ME TO BE THE PERSON(S) DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES:_____

_____
NOTARY PUBLIC

TERRY J ASEL
NEW MEXICO
15079
PROFESSIONAL LAND SURVEYOR

SURVEYORS CERTIFICATE

I, TERRY J. ASEL, NEW MEXICO PROFESSIONAL SURVEYOR NO. 15079, DO HEREBY CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEETS THE "MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO" AS ADOPTED BY THE NEW MEXICO STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS.

IN WITNESS WHEREOF I HEREUNTO SET MY HAND AND AFFIX MY OFFICIAL SEAL THIS 21st DAY OF June 2013.

Terry J. Asel
Terry J. Asel N.M. R.P.L.S. No. 15079

LEGEND
◉ – DENOTES: FOUND MONUMENT AS NOTED
◎ – DENOTES: SET 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204"
○ – DENOTES: SET 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" ON PREVIOUS SURVEY

60' 0 60' 120 FEET
SCALE: 1"= 60'

Asel Surveying
P.O. BOX 393 – 310 W. TAYLOR
HOBBS, NEW MEXICO – 575-393-9146

KALLIE WINDSOR	Work Order #130515PS-a
Date Surveyed: 05/15/2013	Surveyed by: Terry Asel
DWG #130515PS-a.dwg	Drafted By: KA
Scale: 1" = 60'	Sheet 1 of 1

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

_____, 2013,

AT _____ , O'Clock _____M

and Recorded in Book_____

Page_____

Pat Chappelle, Lea County Clerk

By_____ Deputy

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☐ **INFORMATION** ☑ **OTHER ACTION**

SUBJECT: Consider Approval of Variance for Carport
DEPARTMENT: Planning and Zoning Commission
SUBMITTED BY:
DATE SUBMITTED: September 10, 2013

STAFF SUMMARY:

Joe Valencia has requested a variance for a carport located at 1105 W. Tyler. Mr Valencia started building this carport when it was found to be in violation of the setback requirements, per City code. (17.20.040, Sec. 7 requires front yard depth of at least 5 feet immediately below the carport).

This issue was brought to the Planning and Zoning Commission at the September 4, 2013 and was given a recommendation to approve the variance.

Notification of this variance request has been advertised and letters submitted to property owners within 100 feet of the location. The advertisement and letters provided the date of this public hearing.

FISCAL IMPACT: *REVIEWED BY:* _____
(Finance Director)

ATTACHMENTS:

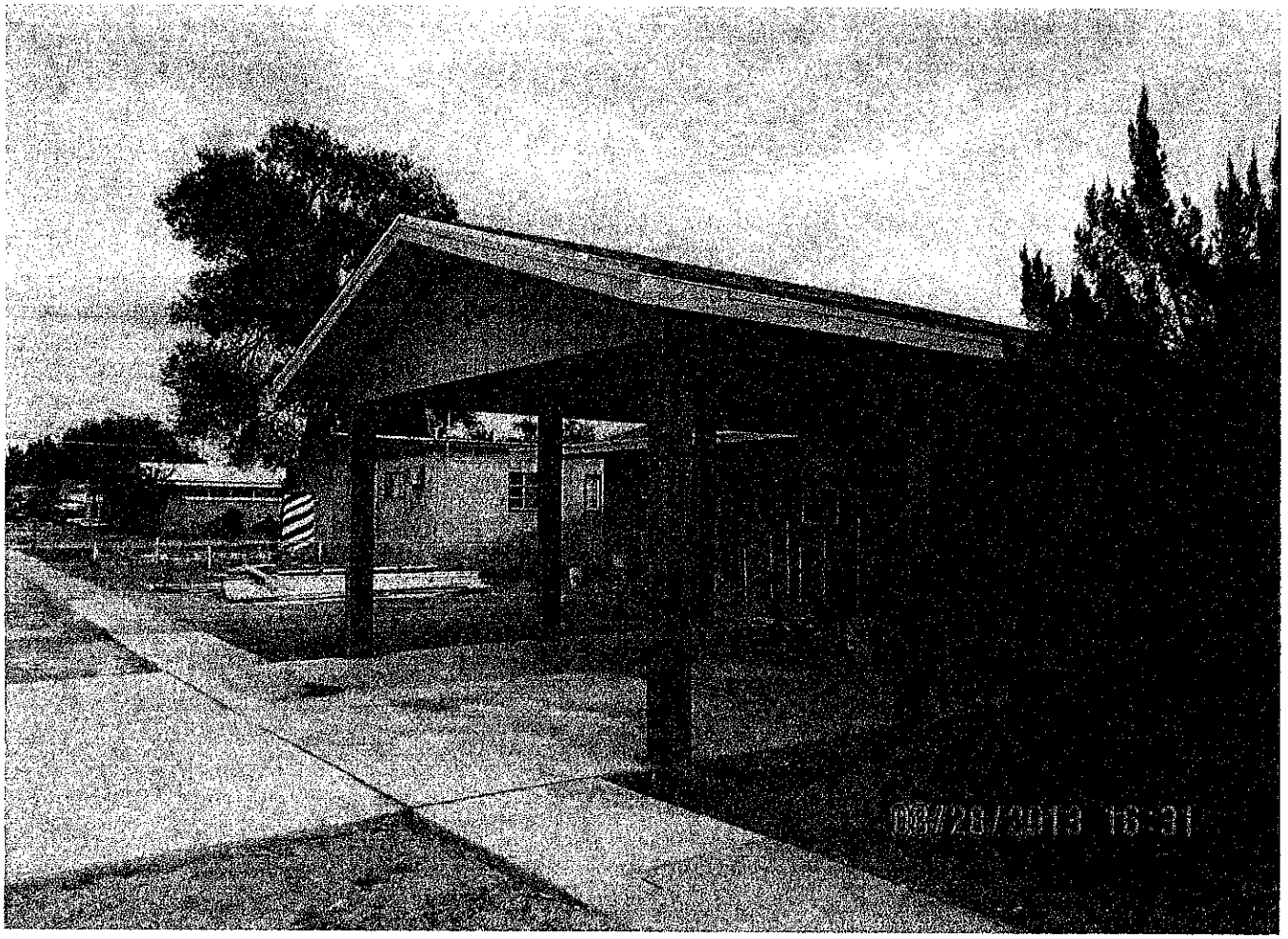
Photos of carport, diagram of carport

RECOMMENDATION:

Motion to approve based on Planning and Zoning Commission approval.

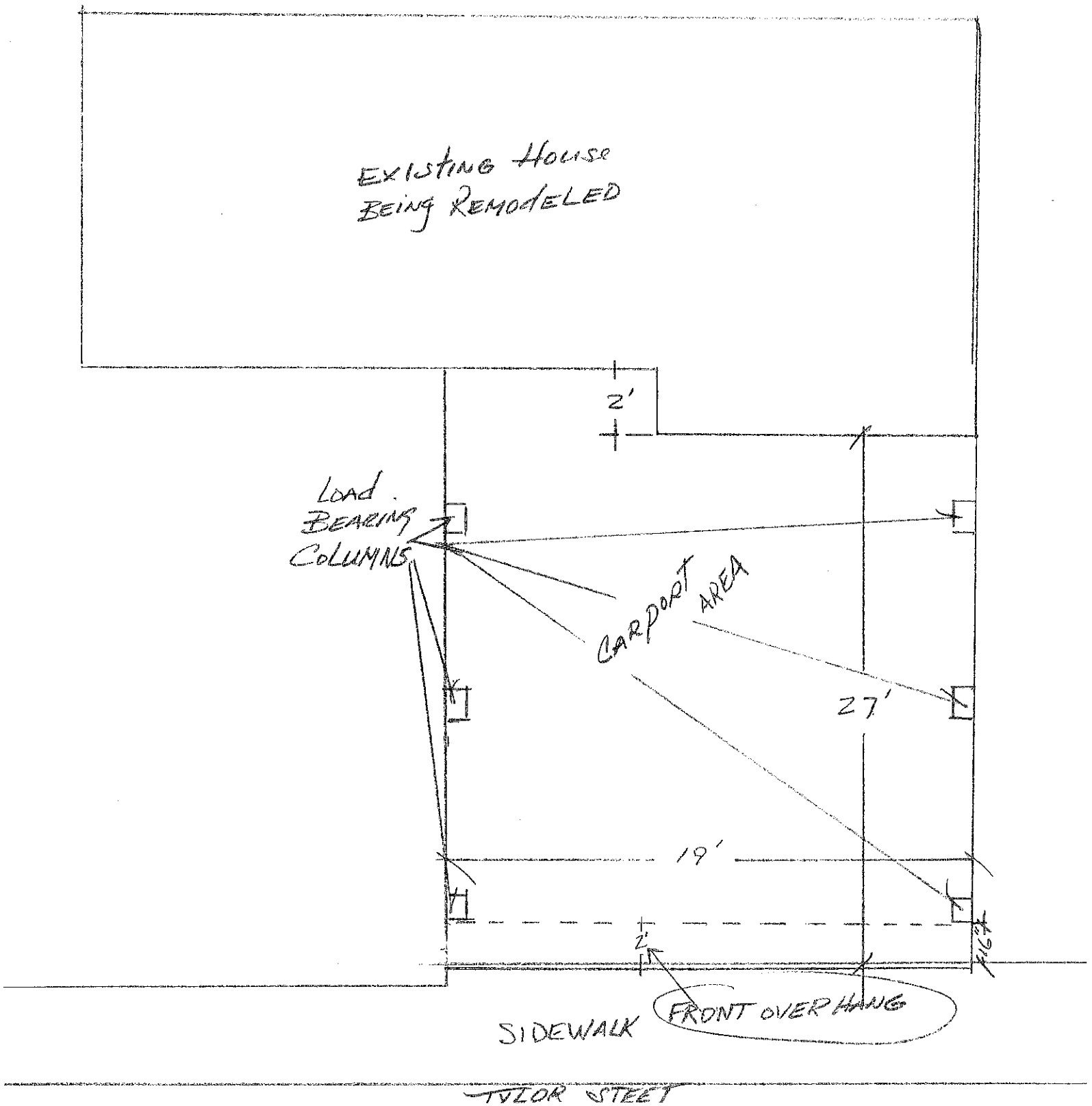
_____ **Department Head**

_____ **City Manager**



1405 W TAYLER ST

1405 WEST TYLER



CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☐ **INFORMATION** ☑ **OTHER ACTION**

SUBJECT: Summary Plat Approval - Shields Robinson Subdivision
DEPARTMENT: Planning and Zoning Commission
SUBMITTED BY:
DATE SUBMITTED: September 10, 2013

STAFF SUMMARY:

The owners of the property located at Avenue K and Commercial are wishing to subdivide, through summary process, their 9.1 acre tract of land into two separate tracts.

This issue was presented to the Planning and Zoning Commission on September 4, 2013 and was given a recommendation to approve the subdivision.

FISCAL IMPACT: *REVIEWED BY:* _____
(Finance Director)

ATTACHMENTS:

Summary Plat

RECOMMENDATION:

Motion to approve.

_____ **Department Head**

_____ **City Manager**

SHIELDS-ROBINSON SUBDIVISION
Section 10, Township 16 South, Range 36 East, N.M.P.M., Lea County, New Mexico.

LEGAL DESCRIPTION TRACT "A"

A tract of land located in the Northwest Quarter of the Southeast Quarter (NW/4SE/4) of Section 10, Township 16 South, Range 36 East, N.M.P.M., Lea County, New Mexico, and being more particularly described as follows:

Beginning at a point which lies N.89°52'00"E., 315.53 feet from the Northwest corner of the Southeast Quarter of said Section 10; Thence N.89°52'00"E., 470.19 feet; Thence S.00°07'00"W., 389.00 feet; Thence S.89°52'00"W., 625.19 feet; Thence N.02°44'37"E., 108.19 feet; Thence N.89°52'00"E., 138.10 feet; Thence N.02°33'00"E., 281.25 feet to the point of beginning. Said tract of land containing 4.6157 acres, more or less.
The North 30 feet reserved for road easement.

LEGAL DESCRIPTION TRACT "B"

A tract of land located in the Northwest Quarter of the Southeast Quarter (NW/4SE/4) of Section 10, Township 16 South, Range 36 East, N.M.P.M., Lea County, New Mexico, and being more particularly described as follows:

Beginning at a point which lies N.89°52'00"E., 785.72 feet from the Northwest corner of the Southeast quarter of said Section 10; Thence N.89°52'00"E., 503.91 feet; Thence S.00°07'00"W., 389.00 feet; Thence S.89°52'00"W., 503.91 feet; Thence N.00°07'00"E., 389.00 feet to the point of beginning. Said tract of land containing 4.5000 acres, more or less.
The North 30 feet reserved for road easement.

In witness thereof, the undersigned owner of the said land, Barbara Shields and June Robinson has hereunto set his hand this ___ day of _____, 2013.

_____ Barbara Shields

_____ June Robinson

STATE OF NEW MEXICO
COUNTY OF LEA } ss

The Foregoing Instrument was Acknowledged before me this_____ day of _____, 2013 by Barbara Shields and June Robinson.

My commission expires _____

_____ Notary Public

CERTIFICATE OF MUNICIPAL APPROVAL

I, James Williams, City Manager for the City of Lovington, Lea County, New Mexico, do hereby certify that the foregoing plat in the City of Lovington, Lea County, New Mexico, was reviewed and deemed compliant with the Municipal Summary Process Regulation on this _____ day _____, 2013.

_____ James Williams, City Manager

_____ Attest – Carol Ann Hogue, City Clerk

STATE OF NEW MEXICO
COUNTY OF LEA } ss

The Foregoing Instrument was Acknowledged before me this day of _____, 2013 by James Williams and Carol Ann Hogue.

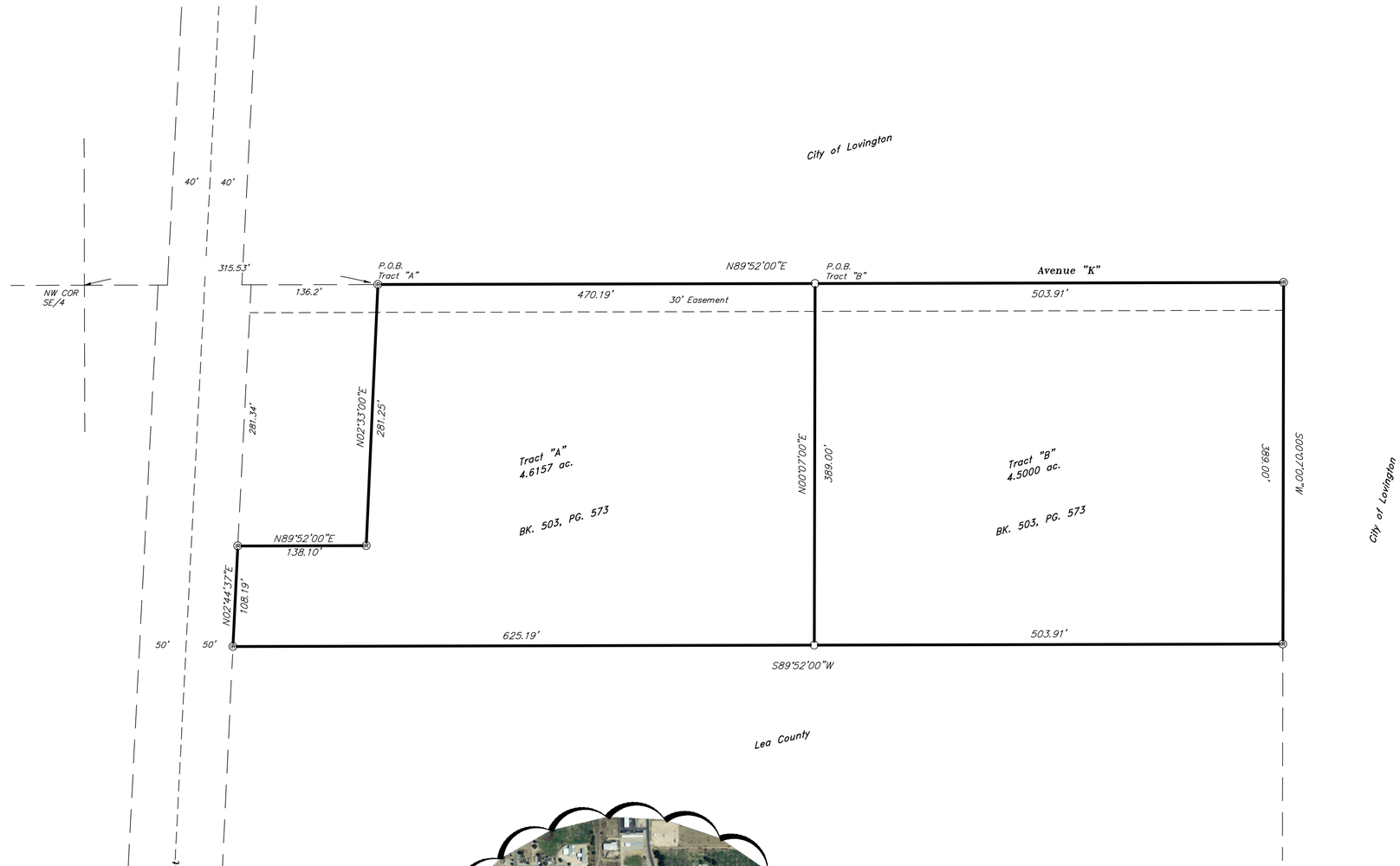
My commission expires _____

_____ Notary Public

CERTIFICATE OF SURVEY

I hereby certify this plat to be a true copy of a survey made in the field under my supervision, and meets the requirements of the Minimum Standards of Surveying in New Mexico as adopted by the New Mexico State Board of Registration for Professional Engineers and Surveyors. This is a survey plot of a Subdivision of a tract of land.
In witness whereof, I hereby set my hand and affix my official seal this ___ day of _____, 2013.

_____
Gary L. Jones, N.M. P.S. 7977



LEGEND
○ – SET 1/2" REBAR
Ⓡ – FND 1/2" REBAR

100 0 100 200 FEET
SCALE 1" = 100'

Prepared by:
BASIN SURVEYS
1120 N. West County Rd.
Hobbs, New Mexico 88240
Ph: (575)393-7316 Fax: (575)392-2206

File: KJG-SHIELDS SUBD 29037	Date: 08-20-2013

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

_____, 2013

AT_____O'CLOCK_____M

AND RECORDED IN BOOK_____

PAGE_____

PAT CHAPPELLE, LEA COUNTY CLERK

BY_____DEPUTY

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☐ **INFORMATION** ☑ **OTHER ACTION**

SUBJECT: Approval of Economic Development Agreement
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 10, 2013

STAFF SUMMARY:

Lea County has allocated $5,000 to the City of Lovington for fiscal year 2013-2014 for economic development. In order to receive this funding, the City Commission must approve the attached agreement.

There have been no changes made to this agreement we have approved in previous years.

FISCAL IMPACT: *REVIEWED BY:* Mashell Stephens
(Finance Director)

Provides $5,000 reimbursement for economic development activities.

ATTACHMENTS:

City and County Agreement

RECOMMENDATION:

Motion to approve.

Department Head **City Manager**

LEA COUNTY – CITY OF LOVINGTON
ECONOMIC DEVELOPMENT AGREEMENT
2013-2014

WHEREAS, the legislature of the State of New Mexico has declared that local government may promote the general welfare of its citizenry by expenditures designed to promote economic development; and

WHEREAS, the Board of County Commissioners of Lea County, New Mexico has determined that public monies expended towards an economic development by the municipalities in Lea County would be monies well spent to promote the general welfare of all the citizens of Lea County.

NOW, THEREFORE, the City of Lovington, New Mexico (the "City") and the Lea County Board of County Commissioners (the "County") wish to enter into an agreement upon the following terms:

Scope of Work:

1.1 City covenants and agrees that the funds are to be used for the promotion or enhancement of economic development for the City. Appropriate uses of these funds are, but are not limited to: travel, printing, research, and advertising.

Term of Contract:

2.1 This agreement shall be effective until June 30, 2014.

2.2 Nothing herein shall be construed as obligating County to fund City or reimburse City for any work performed after June 30, 2014.

Compensation:

3.1 For services rendered to County by City pursuant to this agreement, City shall be paid up to $5,000.00 for economic development for the 2013-2014 fiscal year.

3.2 City shall be reimbursed by County upon presentation of documentation, satisfactory to County, of expenditures made on economic development projects.

Performance:

4.1 City is permitted to subcontract those components of this contract as it deems necessary, with the written consent of County.

4.2 Upon payment of the compensation specified above, County shall be released from any further claims by City in connection with this contract. It is specifically understood that all expenses and obligations incurred by City in providing the services required of it by this contract shall be the sole responsibility of City.

Independent Contractor:

5.1 It is specifically acknowledged and understood that City is an independent contractor and not an agent of County by virtue of this contract.

5.2 Nothing herein shall be construed as giving City the right to make any contracts or commitments for or on behalf of County.

Miscellaneous Provisions:

6.1 This agreement incorporates all agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understanding have been merged into this written agreement. No prior agreement or understanding, verbal or otherwise, between the parties concerning the subject matter of this contract shall be valid or enforceable unless embodied in this contract.

6.2 This contract is subject to New Mexico law. Should any provision herein be found to be illegal or unenforceable, it shall not affect the legality or enforceability of the remainder of the agreement, so long as the basic intent and object of this agreement is not undermined thereby.

6.3 City agrees to hold County safe and harmless from any cost or expenditure made in connection with this agreement determined to be ineligible by the New Mexico State Auditor's Office or the New Mexico Attorney General's Office.

6.4 At any time during normal business hours, and as often as County may deem necessary, there shall be made available to County, for examination, all records maintained by City with respect to all matters covered by this agreement.

6.5 This agreement shall not be altered, changed or amended except by a writing, signed by both parties, which clearly refers to the agreement and clearly identifies what provisions herein is to be changed thereby.

Approved and executed on the ____ day of _____, 2013.

LEA COUNTY BOARD OF COMMISSIONERS

_____
Mike Gallagher, Manager

ATTEST: Pat Chappelle
Lea County Clerk

By: _____
Kelli Williams, Deputy

CITY OF LOVINGTON, NEW MEXICO

_____
Dixie Drummond, Mayor

ATTEST: Lovington City Clerk

By: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____

Lea County Attorney

By: _____
Patrick B. McMahon
Lovington City Attorney

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☑ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☐ **INFORMATION** ☐ **OTHER ACTION**

SUBJECT: Resolution 2013-2: City and NMDOT Cooperative Agreement
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 16, 2013

STAFF SUMMARY:

The acceptable use of the Local Government Road Fund grant that Commission discussed in July has been clarified by NMDOT. This particular grant award was dedicated to improvement of 9th Street from Polk to Gum.

The contract amount will not be sufficient to complete the entire project, as well as the road from Dogwood to Gum Street is actually Lea County's responsibility. We have discussed modifying the project termini with NMDOT and they advised no objection to having the project begin at 9th and Polk and terminate at 9th and Dogwood.

In order to execute the agreement, Resolution 2013-2 must be adopted by the City Commission.

FISCAL IMPACT: *REVIEWED BY:* Machell Stephens *(Finance Director)*

This agreement specifies that the estimated total project cost is $83,745.00. NMDOT will fund 75% ($62,809.00) with the City matching being 25% ($20,936.00). We would also be responsible for any additional costs exceeding the estimated project cost. Funding has been budgeted for this project.

ATTACHMENTS:

Resolution 2013-2
Cooperative Agreement

RECOMMENDATION:

Motion to adopt Resolution 2013-2.

Department Head **City Manager**

CITY OF LOVINGTON
RESOLUTION 2013-2

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the City of Lovington and the New Mexico Department of Transportation have entered into a joint and coordinated effort; and

WHEREAS, the total cost of the project will be $83,745.00 be funded in proportional share by the parties hereto as follows:

A. New Mexico Department of Transportation's share shall be 75% or $62,809.00

and

B. City of Lovington's proportional matching share shall be 25% or $20,936.00

TOTAL PROJECT COST IS $83,745.00

City of Lovington shall pay all costs, which exceed the total amount of $83,745.00

NOW, THEREFORE, be it resolved in official session that the City of Lovington determines, resolves, and orders as follows:

1. The City of Lovington enters into Cooperative Agreement Project Number SP-2-14(918), Control Number L200134 with the New Mexico Department of Transportation for LGRF Projects for year 2013-2014 to design, construct, reconstruct, perform pavement rehabilitation and improvements on 9th Street beginning at the intersection of 9th Street and Polk Avenue and ending at 9th Street and Dogwood Avenue within the control of the City of Lovington in Lovington, New Mexico.

2. The agreement terminates on December 31, 2014 and the City of Lovington incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

PASSED, APPROVED, and ADOPTED THIS 23rd DAY OF SEPTEMBER, 2013.

_____
Dixie Drummond, Mayor

ATTEST:

_____
Carol Ann Hogue, City Clerk

Contract No. _____
Vendor No. **54447-004**
Project No. **SP-2-14(918)**
Control No. **L200134**

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT entered into this _____ day of _____, 2013 between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION** ("Department" and the **CITY OF LOVINGTON,** ("Public Entity").

In consideration of the covenants contained herein and pursuant to Sections 67-3-28 and 67-3-28.2 NMSA 1978 and Commission Policy No. 44-12, THE PARTIES AGREE AS FOLLOWS:

SECTION ONE – PURPOSE:

The purpose of this Agreement is to provide Local Government Road Funds to **CITY OF LOVINGTON** for the **Design, Construction, Reconstruction, Pavement Rehabilitation/Improvements, Blading and Shaping, Drainage Improvements, Misc. on various City roads,** Project No. **SP-2-14(918)** Control No. **L2000134(**"Project"). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement shall specify and delineate the rights and duties of the Parties hereto.

SECTION TWO – PROJECT FUNDING BY PARTIES:

1. The estimated total cost for the Project is **Eighty three thousand, seven hundred forty five dollars and no cents ($83,745.00)** to be funded in proportional share by the parties hereto as follows:

   a. **Department's** share shall be **75%** **$62,809.00**

   Design, Construction, Reconstruction, Pavement Rehabilitation/Improvements, Blading and Shaping, Drainage Improvements, Misc. on various City roads.

   b. The **Public Entity's** required proportional matching Share shall be **25%** **$20,936.00**

For purpose stated above

c. **Total Project Cost** **$83,745.00**

2. The **Public Entity** shall pay all Project costs, which exceed the total amount of **Eighty three thousand, seven hundred forty five dollars and no cents ($83,745.00).**

SECTION THREE – THE PUBLIC ENTITY SHALL:

1. Act in the capacity of lead agency for the purpose as described in Section One.
2. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
3. Be solely responsible for all local matching funds identified in Section Two. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
4. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section One and the Project estimate approved by the District Engineer.
5. In the event a contractor is hired for the Project, require the contractor to have a general liability insurance policy, with limits of liability of at least $1,000,000 per occurrence. The Department is to be named as an additional insured on the contractor's policy and a certificate of insurance must be provided to the Department and it shall state that coverage provided under the policy is primary over any other valid insurance.
6. Require contractors that the Public Entity hires to perform services to defend, indemnify and hold harmless the Department from and against all suits, actions or claims of any character brought because of injury, including death or damages arising out of contractors' construction or maintenance activities pursuant to this agreement, as memorialized herein and subject to any additional permit that may be required of the contractor to perform said activities.

7. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
    a. Utility Certification,
    b. Drainage and storm drain design,
    c. Geotechnical design,
    d. Pavement design,
    e. Environmental and archaeological clearances Certification,
    f. Right of-way acquisition Certification,
    g. Hazardous substance/waste site(s) contamination,
    h. Railroad Certification,
    i. Intelligent Transportation System (ITS) Certification
8. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
9. Obtain all required written agreements or permits, when applicable, from all public and private entities.
10. Allow the Department to inspect the Project to determine that the Project is being constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department shall result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
11. Complete the project within 18 months of approval of funding by the State Transportation Commission.
12. Agree that the Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed within one year from the effective date of this agreement.
13. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established

Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **"Project Certification of Design, Construction, and Cost," form,** which is attached as Exhibit A.

14. Within thirty (30) days of completion, furnish the Department an **"AS BUILT Summary of Costs and Quantities"** form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in **"Project Certification of Design, Construction, and Cost"** form.
15. Failure to provide the **"Project Certification of Design, Construction, and Cost"** form and an **"AS BUILT Summary of Costs and Quantities"** report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
16. Maintain all facilities constructed or reconstructed with funds provided by this Agreement.

SECTION FOUR – THE DEPARTMENT SHALL:

Pay project funds as identified in Section Two, Paragraph 1a, to the Public Entity in a single lump sum payment after:

1. Receipt of a Notice of Award and Notice to Proceed and,
2. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section Two, Paragraph 1b.

SECTION FIVE – BOTH PARTIES AGREE:

1. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department shall be accounted for and disposed of by the Public Entity as directed by the Department.
2. That no money in the Local Government Road Fund shall be used by the Department to administer any program, and no entity receiving a distribution pursuant to a program requiring matching funds shall use another distribution made pursuant to NMSA 1978 Section 67-3-28.2, to meet the match required.

3. That the provisions of the Local Government Road Fund Project Handbook (Current Edition and any amendments thereto, are incorporated herein by reference and shall control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments thereto.

SECTION SIX – THIRD PARTY BENEFICIARY CLAUSE:

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public, or any member thereof, a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit for wrongful death, bodily and/or personal injury to a person, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

SECTION SEVEN – PROJECT RESPONSIBILITY:

The improvements proposed in Section One of this Agreement shall not be under the jurisdiction and control of the Department.

SECTION EIGHT – JURISDICTION:

By reason of the Department's participation in the funding of this Project, the Department is not incorporating this Project into the state highway system, nor is the Department assuming any maintenance or user responsibility of liability for participation on this project.

SECTION NINE – NEW MEXICO TORT CLAIMS ACT:

Each party shall be responsible for liability arising from personal injury or damage to person and property occasioned by its own agents or employees in the performance of this Agreement, subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act (Section 41-4-1, et seq., NMSA 1978). This paragraph is intended only to define the liabilities between the parties hereto and is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

The Public Entity and its "employees" as defined in the New Mexico Tort Claims Act, and the Department and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

SECTION TEN – EQUAL OPPORTUNITY COMPLIANCE:

The Public Entity agrees to abide by all applicable Federal and State Laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the Public Entity agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this Agreement. If the Public Entity is found to be not in compliance with these requirements during the life of this Agreement, the Public Entity agrees to take appropriate steps to correct these deficiencies.

SECTION ELEVEN –LEGAL COMPLIANCE

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including , but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace, including laws and regulations hereafter enacted. The Public Entity shall ensure that the requirements of this compliance are made a part of each subcontract on this Project at all tiers.

SECTION TWELVE – PUBLIC ENTITY'S PRIOR COSTS:

Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and will not be included in the amount to be disbursed as agreed upon.

SECTION THIRTEEN – ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS:

There shall be strict accountability for all receipts and disbursements relating hereto. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation shall be reimbursed to the Department within thirty days.

SECTION FOURTEEN – DEPARTMENT'S AUTHORIZATION OF EXPENDITURES:

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico, for performance of this Agreement. The Department is expressly not committed to expenditure of any funds until such time as they are budgeted, appropriated by the legislature, and approved for expenditure. The Department's decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

SECTION FIFTEEN – UNEXPENDED, UNENCUMBERED PROJECT BALANCES:

Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this project shall revert to the Department. These balances, if any, shall be reimbursed to the Department within thirty- (30) days of project completion or expiration of this Agreement, whichever occurs first.

SECTION SIXTEEN – TERMS OF THIS AGREEMENT:

This Agreement constitutes the entire Agreement between the parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this Agreement and not enforceable pursuant to this Agreement. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statues, regulations, rules, or ordinances.

SECTION SEVENTEEN – TERM:

This Agreement becomes effective upon signature of all Parties. This Agreement terminates on December 31, 2014.

SECTION EIGHTEEN – TERMINATION:

1. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing 30 days written notice.
2. The Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed within nine months from the effective date of this agreement.
3. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the CITY OF LOVINGTON.
4. Neither party shall have any obligation after said date of termination, except as stated in Sections Five, Seven and Eight. The Public Entity agrees to reimburse to the Department all unexpended Department funds disbursed in accordance with this Agreement.

SECTION NINETEEN – SCOPE OF AGREEMENT:

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

SECTION TWENTY – SEVERABILITY:

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement shall remain in full force and effect.

SECTION TWENTY-ONE – APPLICABLE LAW:

The Laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1(G) NMSA 1978.

SECTION TWENTY-TWO – AMENDMENT:

This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties hereto.

IN WITNESS WHEREOF, the Parties have set their hands and seals this day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:_____ Date: _____

Cabinet Secretary or Designee

City of Lovington

By:_____ Date: _____

Dixie Drummond, Mayor

ATTESTED

By:_____ Date: _____

Carol Ann Hogue, City Clerk

EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):
_____
_____
_____
_____

I, the undersigned, in my capacity as _____ of _____ state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this agreement and in the Local Government Road Fund Project Handbook (Current Edition);

2. Construction of the project was performed in accordance with standards and specifications set forth in:
   _____
   And completed on _____, 20_____; and

3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the CITY OF LOVINGTON share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

_____ _____
Name Date

_____
Print Name

_____

EXHIBIT B
AS BUILT SUMMARY

COSTS & QUANTITIES

ENTITY: _____ **: Contract No** _____ **Control No:** _____

PROJECT No.: _____

ROUTE: _____

TERMINI: _____

SCOPE OF WORK: _____

_____

ITEM NO.	ITEM DESCRIPTION	UNIT	ESTIMATED QUANTITY	FINAL QUANTITY	UNIT COST	FINAL COST
						0.00

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☐ **INFORMATION** ☑ **OTHER ACTION**

SUBJECT: Approval to Advertise Ordinance 512 - Off Street Parking
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 10, 2013

STAFF SUMMARY:

Staff have prepared Ordinance 512 - Off Street Parking and require your approval to begin advertisement of this ordinance. In addition, copies of this ordinance will be mailed to each property owner in Zone A - Single Family Dwelling and Zone B - Multi Family Dwelling.

If approval is granted tonight, this ordinance will be presented to Commission for formal adoption at the October 28, 2013 regular Commission Meeting.

FISCAL IMPACT: *REVIEWED BY:* Machell Stephens *(Finance Director)*

Advertisement and mailing costs. Approximately $1,500.

ATTACHMENTS:

Ordinance 512

RECOMMENDATION:

Motion to approve advertisement.

Department Head **City Manager**

ORDINANCE NO. 512

An ordinance of the City of Lovington, New Mexico, amending Title 17, Chapter 17.16 – General Use Regulation, of the Lovington Municipal Code.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LOVINGTON THAT TITLE 17, CHAPTER 17.16 BE AND HEREBY IS AMENDED AS FOLLOWS:

17.16.080 Off Street Parking

A. No truck tractor, semitrailer, the truck tractor individually, or the semitrailer individual is permitted to park anywhere within any residential zone of the City.

B. No commercial vehicles are to be parked and/or stored in the front yard, side yard, or rear yard setbacks within any residential zone of the City. Commercial vehicles are defined as vehicles with more than two axles, a vehicle used to transport hazardous materials requiring Department of Transportation placarding, construction vehicles designed for off road usage, and vehicles requiring the driver to have either a Class A or Class B drivers license or the equivalent. A non-commercial vehicle is defined as one that has a gross weight rating of not more than ten thousand (10,000) pounds and can be legally parked in a standard eight and a half (8.5) foot by twenty (20) foot parking space.

C. Parking generated by residential occupation shall not be permitted in the front, side, or rear yard setbacks except that the existing driveway, improved driveway, or parking pad may be used.

D. No more than forty (40) percent of the front, side, or rear yard setback can be dedicated to off-street parking.

E. All open off-street parking surfacing and access drives shall be designed and constructed utilizing the following types of acceptable coverage:

a. Four (4) inches of base coarse covered with a two (2) inch layer of asphalt; or
b. Minimum depth of six (6) inches of concrete; or
c. Compacted gravel; or
d. Cinder; or
e. Crushed stone

Parking surfaces constructed of compacted gravel, cinder, or crushed stone must have a delineated edge.

Grass and bare earth parking areas are prohibited.

F. No recreational vehicle shall be parked within the front or side yard setbacks of any property in any residential zone for more than a seventy-two (72) hour period. A recreational vehicle means each of the following:

a. Bus;
b. Camp trailer;
c. Camper;
d. Fifth-wheel travel trailer;
e. Trailer;
f. Motor-coach
g. Motor home
h. Boat;
i. Jet ski or other watercraft
j. All terrain vehicle

G. The follow exceptions and restrictions apply to off-street parking of recreational vehicles:

a. A single recreational vehicle may be parked adjacent to the driveway on a permitted paved area or pad provided that the recreational vehicle is parked a minimum of five (5) feet behind the back of the sidewalk, or eight and one-half (8 ½) feet behind the property line in cases where there is no sidewalk.
b. In addition to parking on parking pads, a single recreational vehicle may be parked on the driveway of a two-car garage of a residence, provided that the vehicle meets the setback requirements prescribed above for parking pad use.
c. Recreational vehicles may be parked within a street-side side yard setback provided such vehicles are behind a six (6) feet tall solid fence.
d. Recreational vehicles may be parked on an approved off-street parking surface or parking pad within the side and rear yard setbacks.

H. No recreational vehicle may be occupied for living, sleeping, or any other purposes while parked per the limitations listed above other

than a visitor's recreational vehicle, which may be used for the guest's accommodations for not more than seven (7) days.

APPROVED, PASSED, AND ADOPTED this _____ day of _____, 2013.

CITY OF LOVINGTON

_____

DIXIE DRUMMOND, MAYOR

ATTEST:

_____

CAROL ANN HOGUE, CITY CLERK

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☐ **INFORMATION** ☑ **OTHER ACTION**

SUBJECT: Approval to Advertise Ordinance 513 - Annexation
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 10, 2013

STAFF SUMMARY:

Staff have prepared Ordinance 513 - Annexation and are requesting approval to advertise and mail out notification of the proposed zoning code change.

If approval is granted for advertisement, this ordinance will be presented to Commission at the regular meeting on October 28, 2013.

FISCAL IMPACT: *REVIEWED BY:* Machell Stephens *(Finance Director)*

Advertisement and mailing costs. This particular ordinance will need to be mailed to each property owner in each zone within the City as it will affect all.

ATTACHMENTS:

Ordinance 513

RECOMMENDATION:

Motion to approve advertisement of Ordinance 513.

Department Head **City Manager**

ORDINANCE NO. 513

An ordinance of the City of Lovington, New Mexico, amending Title 17, Chapter 17.12.040 – Annexation, of the Lovington Municipal Code.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LOVINGTON THAT TITLE 17, CHAPTER 17.12.040 BE AND HEREBY IS AMENDED AS FOLLOWS:

17.12.040 Annexation

All territory proposed for annexation shall be studied by the Planning and Zoning Commission. If the Planning and Zoning Commission recommends approval of the annexation request, a second recommendation shall be prepared to assign the proposed territory a zoning district in conformance with the comprehensive plan. The City Commission shall consider both the annexation request and zoning recommendation concurrently at the next regularly scheduled meeting.

APPROVED, PASSED, AND ADOPTED this _____ day of _____, 2013.

CITY OF LOVINGTON

_____
DIXIE DRUMMOND, MAYOR

ATTEST:

_____
CAROL ANN HOGUE, CITY CLERK

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☐ **INFORMATION** ☑ **OTHER ACTION**

SUBJECT: Approval to Advertise Ordinance 514 - Industrial Zone
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 10, 2013

STAFF SUMMARY:

Staff have prepared Ordinance 514 - Industrial Zone Changes and are requesting approval to advertise and mail out notification of the proposed change in zoning code.

If approval to advertise is given, staff will present this ordinance to Commission for adoption at the October 28, 2013 regular meeting.

FISCAL IMPACT: *REVIEWED BY:* Mashell Stephens
(Finance Director)

Advertising and mailing costs to individuals in the D - Industrial Zone.

ATTACHMENTS:

Ordinance 514

RECOMMENDATION:

Motion to approve advertisement of Ordinance 514.

Department Head **City Manager**

ORDINANCE NO. 514

An ordinance of the City of Lovington, New Mexico, amending Title 17, Chapter 17.32 – D Industrial District, of the Lovington Municipal Code.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LOVINGTON THAT TITLE 17, CHAPTER 17.32 BE AND HEREBY IS AMENDED AS FOLLOWS:

17.32.010 Regulations – In general

In the Industrial district, there may be any use; except, that there may be no building for residential use and no mobile trailers; provided, however, that this shall not preclude housing for supervisory, maintenance, or custodial personnel where industrial processes require them to live on the premises.

17.32.020 Prohibited Uses

Any building or premises may be used for any purpose not in conflict with any ordinance of the City regulating nuisances; provided, however, that no building or occupancy permit shall be issued for any of the following uses until, and unless the location of such use has been reviewed and recommended by the Fire Chief. Upon positive recommendation of the following uses by the Fire Chief, the City Commission may grant approval.

1. Acid manufacture;
2. Cement, lime, gypsum, or plaster of paris manufacture;
3. Distillation of bones;
4. Explosives manufacture or storage;
5. Fat rendering;
6. Fertilizer manufacture;
7. Gas manufacture;
8. Garbage, offal, or dead animals, reduction, or dumping;
9. Glue manufacture;
10. Milling plants;
11. Cotton gins;
12. Smelting of tin, copper, zinc, or iron ores;
13. Stockyards or slaughter of animals;
14. Any other uses which might be objectionable to, or adversely affect nearby residential districts because of odor, dust, smoke, gas, or noise.

APPROVED, PASSED, AND ADOPTED this _____ day of _____, 2013.

CITY OF LOVINGTON

_____

DIXIE DRUMMOND, MAYOR

ATTEST:

_____

CAROL ANN HOGUE, CITY CLERK

CITY OF LOVINGTON

COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 23, 2013

TYPE: ☐ **RESOLUTION** ☐ **ORDINANCE** ☐ **PROCLAMATION** ☐ **INFORMATION** ☑ **OTHER ACTION**

SUBJECT: Approval to Advertise Ordinance 515 - Annex Territory
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 10, 2013

STAFF SUMMARY:

The City has received a petition to annex approximately 26.43 acres of land located northeast of the intersection of 17th Street and Brian Urlacher. The owners of the property desire to be annexed into the City and plan on developing a residential subdivision.

This issue was recommended for approval by the Planning and Zoning Commission at the September 4, 2013 meeting. In order to annex this property, adoption by ordinance is necessary. If Commission approved, this Ordinance 515 will be advertised for the next two weeks and presented to Commission for adoption at the October 14, 2013 regular meeting.

FISCAL IMPACT: *REVIEWED BY:* _____
(Finance Director)

Advertisement costs.

ATTACHMENTS:

Ordinance 515
Annexation Petition
Annexation plat

RECOMMENDATION:

Motion to approve advertisement of Ordinance 515.

_____ **Department Head**

_____ **City Manager**

ORDINANCE NO. 515

The City of Lovington pursuant to the provision of Section 3-7-17, NMSA 1978, does hereby, with the adoption of this ordinance, express its consent to the annexation to the City of Lovington of the contiguous territory below described, and does hereby annex the following described territory to the present boundaries of the City of Lovington to-wit:

The following legal description and the attached petition (Attachment A) and Annexation Plat (Attachment B) of contiguous territory to the City of Lovington:

1) Being the lands petitioned and privately owned by the Roberts Family Trust as recorded in Book 1375, Page 512 in the office of the County Clerk, Lea County, New Mexico as identified in the filed plat (Attachment B) and contiguous to the Corporate limits of the City of Lovington as is more specifically described as:

   The North half of the Southwest Quarter of the Southwest Quarter (N/2SW/4SW/4), Less the North 20 feet thereof and the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW/4SW/4SW/4) Section 9, Township 16 South, Range 36 East, N.M.P.M., Lea County, New Mexico, being more particularly described as follows:

   Beginning at a point being N00°06’00”W, 400.00 feet and N89°54’00”E, 30.00 feet from the Southwest corner of said Section 9, thence N00°06’00”W, 922.98 feet to appoint on the South line of Unit 2 of the Alice Subdivision to the City of Lovington; thence N89°44’00”E, along this South line, 20.00 feet; thence S00°06’00”E 1123.04 feet to a point on a curve to the left; thence along this curve, 204.20 feet (said curve having a radius of 130.00 feet, a central angle of 90 degrees 00” and a chord bearing and distance of S45°05’59”E, 183.85 feet); thence S87°28’02”E, 189.99 feet; thence S88°28’04”E, 313.25 feet; thence S89°42’10”W, 652.92 feet; thence N00°06’00”W, 349.90 feet to the point of beginning.

   Less and except a tract of land located in the Southwest Quarter of Section 9, Township 16 South, Range 36 East, N.M.P.M., Lea County, New Mexico and being more particularly described as follows:

   Beginning at a point from whence the Southwest corner of Said Section 9 bears S0°04’44”E, 50.00 feet and S89°42’10”W, 682.90 feet; thence N88°28’04”W, a distance of 313.25 feet; thence N87°28’02”W, a distance of 189.99 feet; thence along the arc of a curve to the right having a central angle of 90°00’00” and a radius of 130 feet (Cord=N45°05’59”W, 183.85 feet) a distance of 204.20 feet; thence N°06’00”W along a line 50.00 feet east of a

parallel to the West line of said Section 9a distance of 494.06 feet; thence N89°52'05"E, a distance of 6.34 feet; thence along the arc of a curve to the left having a central angle of 90°12'26", and a radius of 614.07 feet (Cord=S45°14'08"E, 869.99 feet) a distance of 966.80 feet; thence N89°42'10"E, a distance of 9.96 feet; thence S0°04'44"E, a distance of 28.03 feet to point of beginning. Containing 26.43 acres more or less.

That the City Clerk is directed, pursuant to State Statute, to file a copy of this Ordinance, together with a copy of the petition and plat of the territory so annexed, in the Office of the County Clerk and send copies to the Secretary of Finance and Administration and the Secretary of Taxation and Revenue.

That the annexation of such territory to the City of Lovington shall be deemed complete within thirty (30) days after filing of a copy of this Ordinance in the Office of the County Clerk unless an appeal be made to the District Court as provided in said statute.

That said territory will be zoned and shall upon adoption be included in the Official Land Use Map all pursuant to the provisions of the City of Lovington Land Use Regulations.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF LOVINGTON ON THE _____ DAY of _____, 2013.

_____
DIXIE DRUMMOND, Mayor

ATTEST:

_____
CAROL ANN HOGUE, City Clerk

PETITION FOR ANNEXATION

COMES NOW ROBERTS FAMILY TRUST, and petitions the City Commission of the City of Lovington, New Mexico for its consent by resolution for the annexation of that portion of property it owns lying outside the City limits and to those properties immediately adjacent to it to the City of Lovington more properly described by aforementioned attachments to this petition

(SEE ATTACHMENTS)

And Petitioner states in support of such Petition, pursuant to Section 3-7-17.1 of the New Mexico State Statutes Annotated (1978) that:

1. The property petitioner wishes to be annexed and the real property is contiguous to the present municipal boundaries of the City of Lovington.
2. An Annexation Plat is attached hereto showing the boundaries of the real property proposed for annexation and the relationship of such property to the present boundaries of the City of Lovington.

Petitioner: Roberts Family Trust

By: Howard D. Roberts

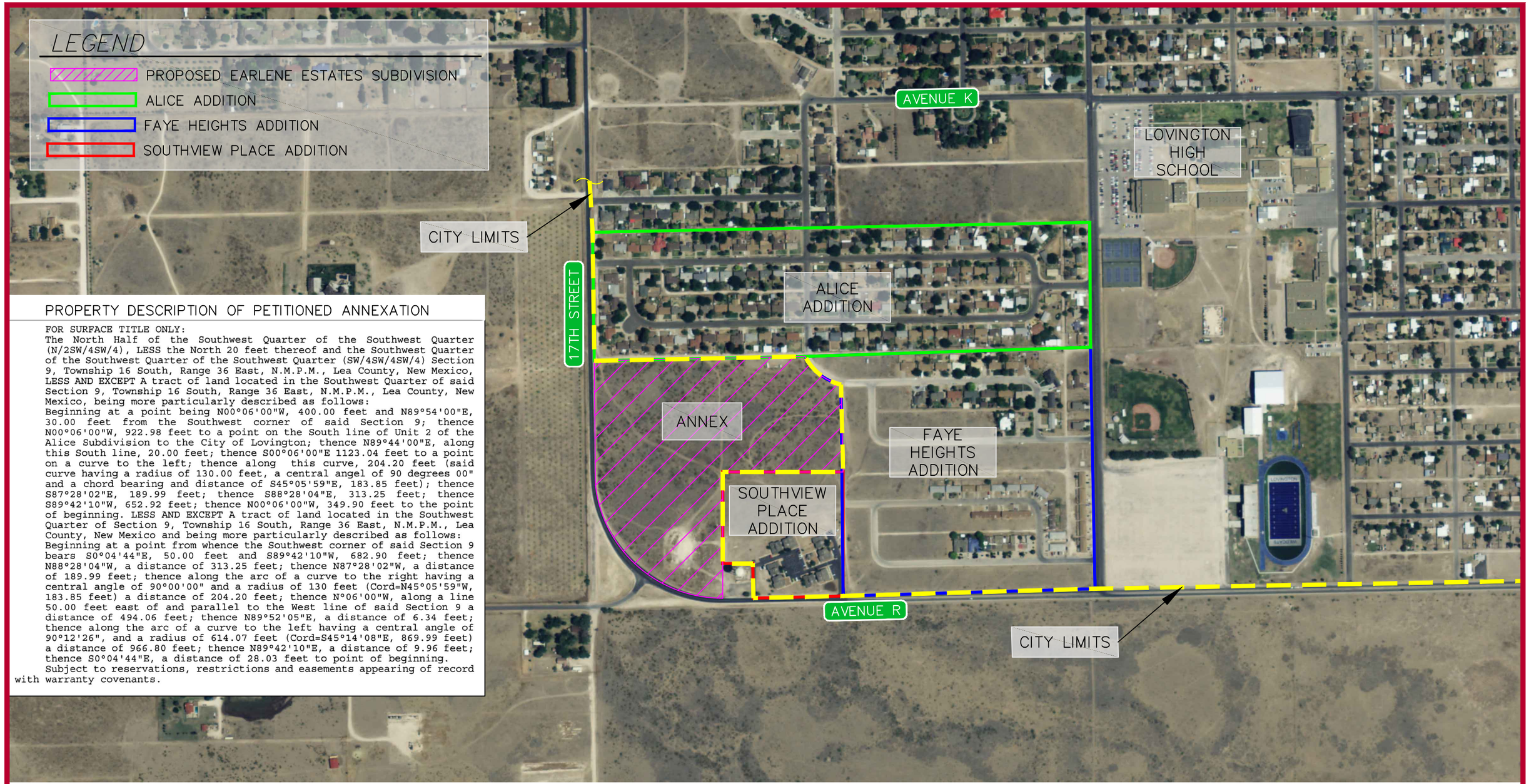
Its: Trustee

Date: 8-30-2013

Acknowledged: City of Lovington

By: [illegible]

Date: 8/30/13



PROPERTY DESCRIPTION OF PETITIONED ANNEXATION

FOR SURFACE TITLE ONLY:
The North Half of the Southwest Quarter of the Southwest Quarter (N/2SW/4SW/4), LESS the North 20 feet thereof and the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW/4SW/4SW/4) Section 9, Township 16 South, Range 36 East, N.M.P.M., Lea County, New Mexico, LESS AND EXCEPT A tract of land located in the Southwest Quarter of said Section 9, Township 16 South, Range 36 East, N.M.P.M., Lea County, New Mexico, being more particularly described as follows:
Beginning at a point being N00°06'00"W, 400.00 feet and N89°54'00"E, 30.00 feet from the Southwest corner of said Section 9; thence N00°06'00"W, 922.98 feet to a point on the South line of Unit 2 of the Alice Subdivision to the City of Lovington; thence N89°44'00"E, along this South line, 20.00 feet; thence S00°06'00"E 1123.04 feet to a point on a curve to the left; thence along this curve, 204.20 feet (said curve having a radius of 130.00 feet, a central angel of 90 degrees 00" and a chord bearing and distance of S45°05'59"E, 183.85 feet); thence S87°28'02"E, 189.99 feet; thence S88°28'04"E, 313.25 feet; thence S89°42'10"W, 652.92 feet; thence N00°06'00"W, 349.90 feet to the point of beginning. LESS AND EXCEPT A tract of land located in the Southwest Quarter of Section 9, Township 16 South, Range 36 East, N.M.P.M., Lea County, New Mexico and being more particularly described as follows:
Beginning at a point from whence the Southwest corner of said Section 9 bears S0°04'44"E, 50.00 feet and S89°42'10"W, 682.90 feet; thence N88°28'04"W, a distance of 313.25 feet; thence N87°28'02"W, a distance of 189.99 feet; thence along the arc of a curve to the right having a central angle of 90°00'00" and a radius of 130 feet (Cord=N45°05'59"W, 183.85 feet) a distance of 204.20 feet; thence N°06'00"W, along a line 50.00 feet east of and parallel to the West line of said Section 9 a distance of 494.06 feet; thence N89°52'05"E, a distance of 6.34 feet; thence along the arc of a curve to the left having a central angle of 90°12'26", and a radius of 614.07 feet (Cord=S45°14'08"E, 869.99 feet) a distance of 966.80 feet; thence N89°42'10"E, a distance of 9.96 feet; thence S0°04'44"E, a distance of 28.03 feet to point of beginning.
Subject to reservations, restrictions and easements appearing of record with warranty covenants.

EARLENE ROBERTS
REAL EASTATE

205 E. WASHINGTON AVE.
LOVINGTON, NEW MEXICO 88260
PH (575) 396-4663

ANNEXATION EXHIBIT

0 250' 500'

Fierro&Company