

City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 14 Ordinance/Resolution# 10-186 Council District: 6

For Meeting of January 19, 2010
(Adoption Date)

TITLE:

A RESOLUTION APPROVING AN AGREEMENT WITH ALAMEDA PROPERTY GROUP, DEVELOPER OF MEDIAN LANDSCAPES ON LOHMAN AVENUE, SONOMA RANCH BOULEVARD AND RINCONADA BOULEVARD REQUIRING THE CITY TO EITHER CONSTRUCT A RECREATION TRAIL SEGMENT IN THE ALAMEDA ARROYO CORRIDOR OR TO REIMBURSE THE DEVELOPER (WITHIN A FIVE YEAR PERIOD) FOR THE COST OF THE MEDIAN LANDSCAPE IMPROVEMENTS INSTALLED, BUT NOT REQUIRED OF THE DEVELOPER, FOR A TOTAL AMOUNT NOT TO EXCEED \$125,115.40.

PURPOSE(S) OF ACTION: Acceptance of an agreement outlining the terms and conditions for the City to construct a trail segment or reimburse the developer for certain median improvements.

Name of Drafter: <i>CM</i> Cathy Mathews, Landscape Arch.		Department: <i>FA</i> Facilities		Phone: 541-2592	
Department	Signature	Phone	Department	Signature	Phone
Facilities Department	<i>[Signature]</i>	541-2651	Budget	<i>[Signature]</i>	2300
			Assistant City Manager	<i>[Signature]</i>	2271
Legal	<i>[Signature]</i>	2128	City Manager	<i>[Signature]</i>	2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On November 6, 2006, City Council approved an agreement with Alameda Property Group (APG) for construction of Rinconada Boulevard, and portions of Sonoma Ranch Boulevard and Lohman Avenue. Construction of these roads was to include landscape planting and irrigation system installation in the medians. Design of the landscape improvements is complete and construction/installation is underway. Portions of the median landscape improvements are immediately adjacent to properties not owned by APG. In return for installing landscape improvements on Sonoma Ranch Boulevard and Rinconada Boulevard adjacent to property owned by others, the City will be responsible for constructing a recreation trail along the Alameda Arroyo Corridor, or reimbursing APG the value of the landscape planting and irrigation improvements in these areas, in an amount not to exceed \$125,115.40.

The landscape improvements covered by this agreement include those located in medians

(Continue on additional sheets as required)

on Sonoma Ranch Boulevard, adjacent to Doña Ana Community College (DACC) property; from Calle Jitas, south to the DACC property line; and on Rinconada Boulevard, adjacent to Bureau of Land Management (BLM) property from the intersection with Sonoma Ranch Boulevard west to the curve in the road. All landscape improvements covered by this agreement are being installed under the supervision of the Project Management Section of the Facilities Department and are subject to inspection and approval by City staff.

Facilities Department staff negotiated the attached proposed agreement with APG. The benefits to the City include immediate construction of the landscape improvements in the medians of Sonoma Ranch Boulevard and Rinconada Boulevard. It is unclear when or if the adjacent property owners, DACC or BLM, would develop the landscape planting or irrigation systems in the medians adjacent to their properties unless through this particular agreement with APG. The City postpones incurring the cost to complete landscape improvements for these portions of these roadway medians, and is allowed up to five years to reimburse APG or to develop another improvement to the recreational opportunities afforded citizens, a recreation trail in the Alameda Arroyo Corridor. It is also intended that property owners/builders/developers who develop land adjacent to the landscaped medians APG has constructed (but not part of APG's properties), will reimburse the City with their pro rata share of costs for these landscape improvements. APG benefits from the immediate construction of the landscape improvements by the increased aesthetic appeal to potential buyers of adjacent land and citizens benefit from an enhanced environment.

Approval of the agreement will allow for construction of a recreation trail in the Alameda Arroyo or reimbursement to the developer for landscape improvements constructed in the medians on Sonoma Ranch Boulevard and Rinconada Boulevard.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
TBD	\$125,115.40	TBD

1. Resolution
2. Agreement to Construct a Recreation Trail or Reimburse
3. Vicinity map

OPTIONS / ALTERNATIVES:

1. Vote "YES" and approve the Resolution and agreement to construct a recreation trail in the Alameda Arroyo or reimburse the developer for constructing landscape improvements in the medians on Sonoma Ranch Boulevard and Rinconada Boulevard.
2. Vote "NO" and deny the Resolution. Such action will not approve the agreement and thus not reimburse the developer or construct a recreation trail in the Alameda Arroyo.
3. Vote to "POSTPONE" the Resolution and direct staff to pursue other options.

(Continue on additional sheets as required)

RESOLUTION NO. 10-186

A RESOLUTION APPROVING AN AGREEMENT WITH ALAMEDA PROPERTY GROUP, DEVELOPER OF MEDIAN LANDSCAPES ON LOHMAN AVENUE, SONOMA RANCH BOULEVARD AND RINCONADA BOULEVARD REQUIRING THE CITY TO EITHER CONSTRUCT A RECREATION TRAIL SEGMENT IN THE ALAMEDA ARROYO CORRIDOR OR TO REIMBURSE THE DEVELOPER (WITHIN A FIVE YEAR PERIOD) FOR THE COST OF THE MEDIAN LANDSCAPE IMPROVEMENTS INSTALLED, BUT NOT REQUIRED OF THE DEVELOPER, FOR A TOTAL AMOUNT NOT TO EXCEED \$125,115.40.

The City Council is informed that:

WHEREAS, the City of Las Cruces has negotiated an agreement with Alameda Property Group (APG), the developer of landscape improvements on Lohman Avenue, Sonoma Ranch Boulevard and Rinconada Boulevard; and

WHEREAS, the agreement establishes the terms of reimbursement which require the City to construct a trail segment in the Alameda Arroyo Corridor, or to reimburse the developer for the median landscape improvements already installed, in an amount not to exceed \$125,115.40; and

WHEREAS, APG is completing the construction of the landscape improvements for the benefit of the City; and

WHEREAS, staff is managing the construction of the landscape improvements to ensure that they are in compliance with City Rules and Regulations; and

WHEREAS, the accompanying agreement as drafted is acceptable to the City.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Agreement to Construct a Recreation Trail or Reimburse, is attached hereto and made a part of this Resolution, and potential payment authorization to Alameda Property Group is approved in the amount of \$125,115.40.

Resolution No. 10-186
Page 2

(II)

THAT the City Manager is hereby authorized to execute the agreement on behalf of the City.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk (SEAL)

VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

AGREEMENT TO CONSTRUCT A RECREATION TRAIL OR REIMBURSE ALAMEDA PROPERTY GROUP (APG) FOR LANDSCAPE IMPROVEMENTS TO LOHMAN AVENUE, SONOMA RANCH BOULEVARD AND RINCONADA BOULEVARD

THIS AGREEMENT made and entered into this ____ day of _____, 20__, by and between the City of Las Cruces, Dona Ana County, New Mexico, a Municipal Corporation, party of the first part, hereinafter referred to as "Owner", and ALAMEDA PROPERTY GROUP (APG), Developer of record of landscaped medians at Lohman Avenue, Sonoma Ranch Boulevard and Rinconada Boulevard, party of the second part, hereinafter referred to as "Contractor."

WITNESSETH:

WHEREAS, in consideration of median landscape work completed, the City of Las Cruces agrees to construct a recreation trail along the Alameda Arroyo from approximately the Rinconada/Sonoma Ranch intersection, to as far west towards the Las Cruces Dam as possible, at a value of \$125,115.40 or greater; or, the City of Las Cruces agrees to reimburse APG the amount of \$125,115.40 within a five-year period.

FOR SAID CONSIDERATION, IT IS FURTHER PARTICULARLY AGREED BETWEEN THE PARTIES TO THIS AGREEMENT AS FOLLOWS:

1. A public recreation trail will be constructed by the Owner or monetary payments will be made by the Owner to the Contractor valued at \$125,115.40 within a five-year period. The amount allocated for reimbursement covers a portion of the cost of the landscaped medians provided by the Contractor and agreed to by the Owner. The portion of the landscaped medians covered includes those medians not immediately adjacent to property owned by the Contractor. The medians are located adjacent to property owned by others. The medians covered include those on Sonoma Ranch Boulevard adjacent to Doña Ana Community College (DACC) property from Calle Jitas south to the DACC property line, ~~on Sonoma Ranch Boulevard adjacent to property owned by TAR Ventures from Camino Coyote south to the property line near the South Las Cruces Arroyo,~~ and on Rinconada Boulevard adjacent to Bureau of Land Management (BLM) property from the intersection with Sonoma Ranch Boulevard west to the curve in the road. The property owner information is current as of November 3, 2009. Exhibit "A" (attached) provides a parcel map identifying those medians adjacent to properties owned by property owners other than APG.
2. The Contractor has developed landscaped medians on Lohman Avenue, Sonoma Ranch Boulevard, and Rinconada Boulevard and has requested that the Owner construct a recreation trail at Owner's expense, or make reimbursement as outlined in this agreement.

3. The trail shall be designed and constructed in compliance with City codes as well as applicable state and federal standards (e.g. Americans with Disabilities Act). It is the intent of the City to design and construct a recreation trail in the area of the Alameda Arroyo and it is the intent that the Alameda Arroyo corridor will remain open space. It is agreed that the Contractor, Alameda Property Group, will be involved in the design process for the recreation trail.
4. That in the event during the contract time any changes are made, it shall be done by written agreement between the Owner and the Contractor.
5. That in the event any of the provisions of the contract are violated by the Contractor or by any subcontractors, the Owner may serve written notice upon the Contractor of its intention to terminate such contract, such notices to contain the reasons for such intention to terminate the contract; and unless within ten (10) days, cease and terminate.
6. It is agreed that a final inspection will be made of the final trail development by the Owner and the Contractor.
7. It is also intended that property owners/builders/developers who develop land adjacent to the landscaped medians APG has constructed (but not part of APG's properties), will reimburse the Owner with their pro rata share of costs as they pertain to these landscape improvements. Exhibit "A" (attached) provides a parcel map identifying those properties adjacent to the medians as outlined in this agreement that are subject to reimbursement of their pro-rata share of the cost.

IN WITNESS WHEREOF, said parties hereto have hereunto set their hands and seals at the Las Cruces, New Mexico, this day and year first above written.

ATTEST:

CITY CLERK (SEAL)

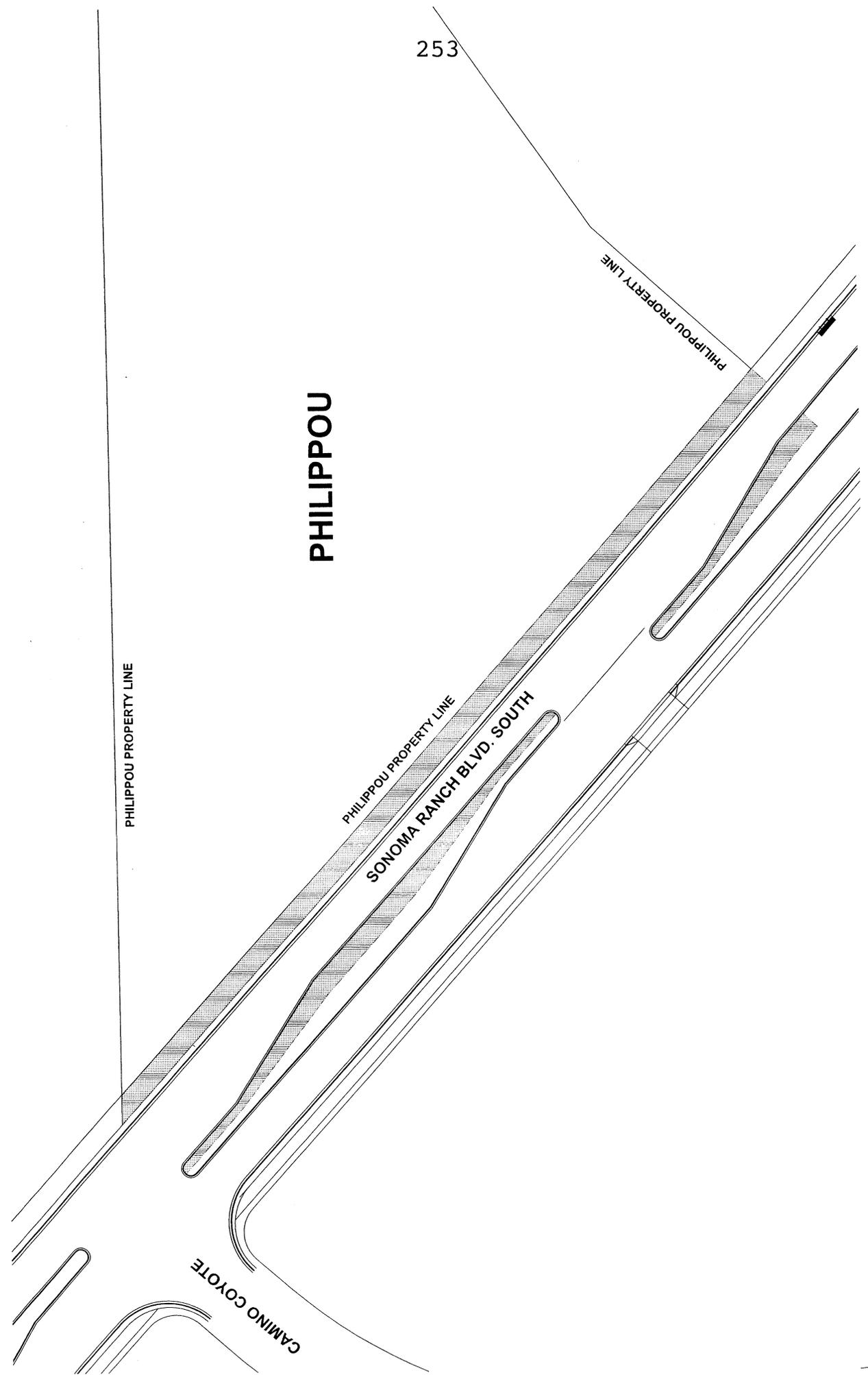
CITY OF LAS CRUCES
(Owner)

APPROVED AS TO FORM:

CITY ATTORNEY

Alameda Property Group
(Contractor)

PHILIPPOU



PHILIPPOU PROPERTY LINE

PHILIPPOU PROPERTY LINE

PHILIPPOU PROPERTY LINE

SONOMA RANCH BLVD. SOUTH

CAMINO COYOTE

254

CALLE JITAS BLVD

DACC PROPERTY LINE

SOMOMA RANCH BLVD. NORTH

MORNING STAR DRIVE

DACC PROPERTY LINE

DACC

DACC PROPERTY LINE

