



# City of Las Cruces®

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## COUNCIL WORK SESSION SUMMARY ROUTING SLIP

Meeting Date February 9, 2015

TITLE: SIERRA NORTE VOLUNTEER ASSESSMENT DISTRICT (VAD)

- Are there attachments to the Council Work Session Summary? Yes  No
- Will there be a Video Presentation for this item? Yes  No
- Will there be a PowerPoint Presentation for this item? Yes  No
- If "yes", will a copy of the PowerPoint Presentation be included on the Council Work Session Agenda? Yes  No

DEPARTMENT / ORGANIZATION	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact		x 3125	1-30-15
Department Director		x 3125	1-30-15
Other			
Assistant City Manager/CAO (if applicable)			
Assistant City Manager/COO (if applicable)		- 2211	1-30-15
City Manager			



## Council Work Session Summary

Meeting Date: February 9, 2015

**TITLE:** SIERRA NORTE VOLUNTEER ASSESSMENT DISTRICT (VAD)

**PURPOSE(S) OF DISCUSSION:**

- Inform/Update
- Direction/Guidance
- Legislative Development/Policy

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The City of Las Cruces (City) has been approached by Sierra Norte Land Holdings, LLC with a proposal to establish a voluntary assessment district (VAD), through a development agreement, to build major roads, sanitary sewer, and drainage infrastructure for the Metro Verde area. The development agreement is written such that the City will obtain financing to pay for this infrastructure and Sierra Norte Land Holdings, LLC will repay the City as outlined in the development agreement.

Staff requests Las Cruces City Council direction on whether or not to proceed with the VAD and the associated funding necessary to pay for the infrastructure.

The presentation will be given in two parts. City staff's presentation will describe the VAD process. Sierra Norte Land Holdings, LLC will present the VAD development agreement and their proposal, how they propose to repay the City, and will address and answer questions specific to the development agreement and the Metro Verde development.

**SUPPORT INFORMATION:**

1. Attachment "A" Draft Development Agreement.

(Continue on additional sheets as required)

**DRAFT**

**AGREEMENT FOR CONSTRUCTION OF SONOMA RANCH BOULEVARD FROM SIERRA VENTANA AVENUE TO APPROXIMATELY ONE-THIRD MILE NORTH OF ARROYO ROAD; ARROYO ROAD FROM RED HAWK GOLF ROAD TO SONOMA RANCH BOULEVARD; APPROXIMATELY ONE AND ONE-THIRD MILES OF RED HAWK GOLF ROAD; APPROXIMATELY TWO-THIRDS OF A MILE OF PEACHTREE HILLS ROAD; ASSOCIATED UTILITIES INCLUDING SANITARY SEWER INFRASTRUCTURE; AND A REGIONAL DRAINAGE SYSTEM.**

This Agreement is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the CITY OF LAS CRUCES, ("City"), a New Mexico municipal corporation, and both Sierra Norte Development, Inc., a New Mexico corporation, and Sierra Norte Land Holdings, LLC, a New Mexico Limited Liability Company ("Sierra Norte").

**BACKGROUND**

1. The purpose of this Agreement is to provide a funding mechanism to construct Sonoma Ranch Boulevard from Sierra Ventana Avenue to approximately one-third mile north of Arroyo Road; Arroyo Road from Red Hawk Golf Road to Sonoma Ranch Boulevard; approximately one and one-third miles of Red Hawk Golf Road; approximately two-thirds of a mile of Peachtree Hills Road; associated utilities including sanitary sewer infrastructure; and a regional drainage system; hereinafter referred to as the "Project". The phasing of the Project is detailed in Exhibit "1".
2. Sierra Norte is the owner of Sonoma Ranch Boulevard (excluding a section of approximately one mile owned by the State of New Mexico Land Office and currently dedicated to the City of Las Cruces), Arroyo Road, and Red Hawk Golf Road described previously as the "Project". Sierra Norte is also the current owner of all of the adjacent property ("Assessed Property") subject to the assessment provided for in this Agreement. The Assessed Property consists of approximately 1,500 acres and is shown in Exhibit "3".
3. Sonoma Ranch Boulevard and Arroyo Road are arterial roadways currently included as part of the Mesilla Valley Metropolitan Planning Organization Major Thoroughfare Plan.
4. There are public safety, transportation, and development needs that will be addressed by the construction of these roadways and related improvements. Specific public benefits of the Project include the implementation of the "complete streets" concept as outlined in the City of Las Cruces Strategic Plan, increased safety for school routes (roads to nearby schools currently lack sidewalks, bike lanes and street lights), construction of drainage infrastructure to address post-development runoff from existing and proposed development and existing historical runoff, building major road infrastructure in a consistent cross-section all at one time and avoiding piecemeal construction, implementation of Smart Growth principles, and location of an elementary school site within Metro Verde South in cooperation with the City and the Las Cruces Public School

## DRAFT

District. Sierra Norte has expressed an interest in proceeding with the construction of the Project at this time.

5. The City agrees to have all improvements that are a part of the Project to be completed in the most cost-efficient manner possible. The Project may be constructed in several individual projects that should be phased and structured to provide maximum opportunity for local contractors to participate in the bidding process.
6. The City will make a good faith effort to obtain funding for the Project. The City intends either to obtain financing through a loan with the New Mexico Financing Authority or issue bonds.

### CONDITIONS

NOW, THEREFORE, in consideration of the mutual obligations contained in the Agreement, the City and Sierra Norte agree as follows:

1. The Project improvements shall be within the areas described in Item 1 above, which are more fully described on the attached site plan, labeled Exhibit "1".
2. Sierra Norte shall complete and provide, to the City, at its sole expense, plans and specifications including bidding documents in standard City format necessary for procurement for the Project. The final construction plans shall be in compliance with all applicable City design and development standards including but not limited to roadway cross sections, and natural gas lines. Roadway cross sections approved by the Las Cruces City Council for the Metro Verde Planned Unit Development may be included in the Project. The City shall determine and have sole discretion as to the definition and interpretation of applicable standards as well as final approval of plans and specifications.
3. The City shall use its best effort to obtain either bond or loan financing for the Project. Sierra Norte shall pay 100 percent of the bond issuance costs or loan financing costs that the City will obtain to finance the Project. Those estimated bond issuance costs are \$\_\_\_\_\_. The bond issuance costs shall be added to the principal amount of the Project. Estimated loan financing charges are \$\_\_\_\_\_.
4. The Project cost shall be allocated equally to the Assessed Property acreage. The per-acre assessment shall be calculated by dividing the initial principal balance by the initial number of assessed acres and multiplying that number by 1.5. The assessment will be applied to property shown on Exhibit "3" consisting of approximately 1500 acres.
5. Exhibit "2", attached hereto, reflects the estimated costs for construction of the Project. These costs shall be adjusted to reflect actual construction costs upon completion of the Project. In accordance with the terms described herein, Sierra Norte shall pay the City the sum designated on Exhibit "2", after adjustment to reflect actual construction cost, so that the City can meet the terms of the bonds without cost to the City. After award of the construction bid and contract, the City shall furnish Sierra Norte an amended Exhibit "2"

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reflecting the bid award prices and the probable allocation to the Assessed Property. Change order costs, if any, and related costs shall be added or deleted from the preliminary costs in Exhibit "2". If the bid amount for the Project comes in at a price in excess of 10 percent over the estimated costs in Exhibit "2", both parties may agree to proceed with that part of the Project, or either party may request that that part of the Project be rebid.

6. (a) The City shall be responsible for all procurement and project management activities including but not limited to bidding, awarding of projects, inspection, testing, labor requirements, payment to contractors, and preparation of documents necessary to take change orders forward for the appropriate approval(s). The Project shall be a City project with all permit fees waived.  
  
(b) Sierra Norte's Engineer of Record, whose name and address shall be on file with the City's Public Works Department at all times, shall be responsible to answer any questions that arise during construction of each phase of the Project, and shall provide any required design or re-design for field changes or change orders, and shall do so in a timely manner so as not to delay any phase of the Project.
7. The nature of the improvements detailed in Exhibits "1" and "2" shall include sub grade, base course, curb and gutter, hot mix asphalt paving, sidewalks, multi-use transportation facilities, drainage improvements, lighting, sanitary sewer and low pressure gas infrastructure, certain specified utilities with mutually agreed upon stub-outs to the Assessed Property, irrigation and landscaping in medians and between sidewalks and curbs. The Project shall include the construction of a high-pressure gas line in Sonoma Ranch Boulevard. The gas line shall be paid for in its entirety by the City of Las Cruces Utilities Department and shall not be included in the bond financing. The Project shall not include any water lines. Any water lines that Sierra Norte wants to build in any roadway that is part of the Project shall be built by Sierra Norte at its sole expense prior to construction of the roadway. All work shall be built according to City standards and shall be inspected and tested by the City during construction. The assessment shall include costs for construction of all improvements, change orders, contingency, and applicable NMGRT.
8. The per acre assessment on each tract, or tracts, as the case may be, shall be paid to the City for each tract as shown in Exhibit "3", at such time as properties are sold, exchanged, assigned, transferred, subdivided or developed as the case may be, whichever occurs first. The transfer of the Assessed Property between Sierra Norte Land Holdings, LLC and Sierra Norte Development, Inc. shall be exempt from any payment to the City but any other transfer to any other party shall trigger the obligation to pay the assessment. No Final Plat of Assessed Property shall be filed prior to payment of the appropriate assessment to the City.
9. Sierra Norte shall guarantee the Project cost by a municipal first lien in favor of the City in the amount shown on Exhibit "2" for the Assessed Property and filed in the office of the Dona Ana County Clerk. Additionally the lienholder of any of the assessed property shown on Exhibit "3", if any, must consent in writing to the municipal lien.

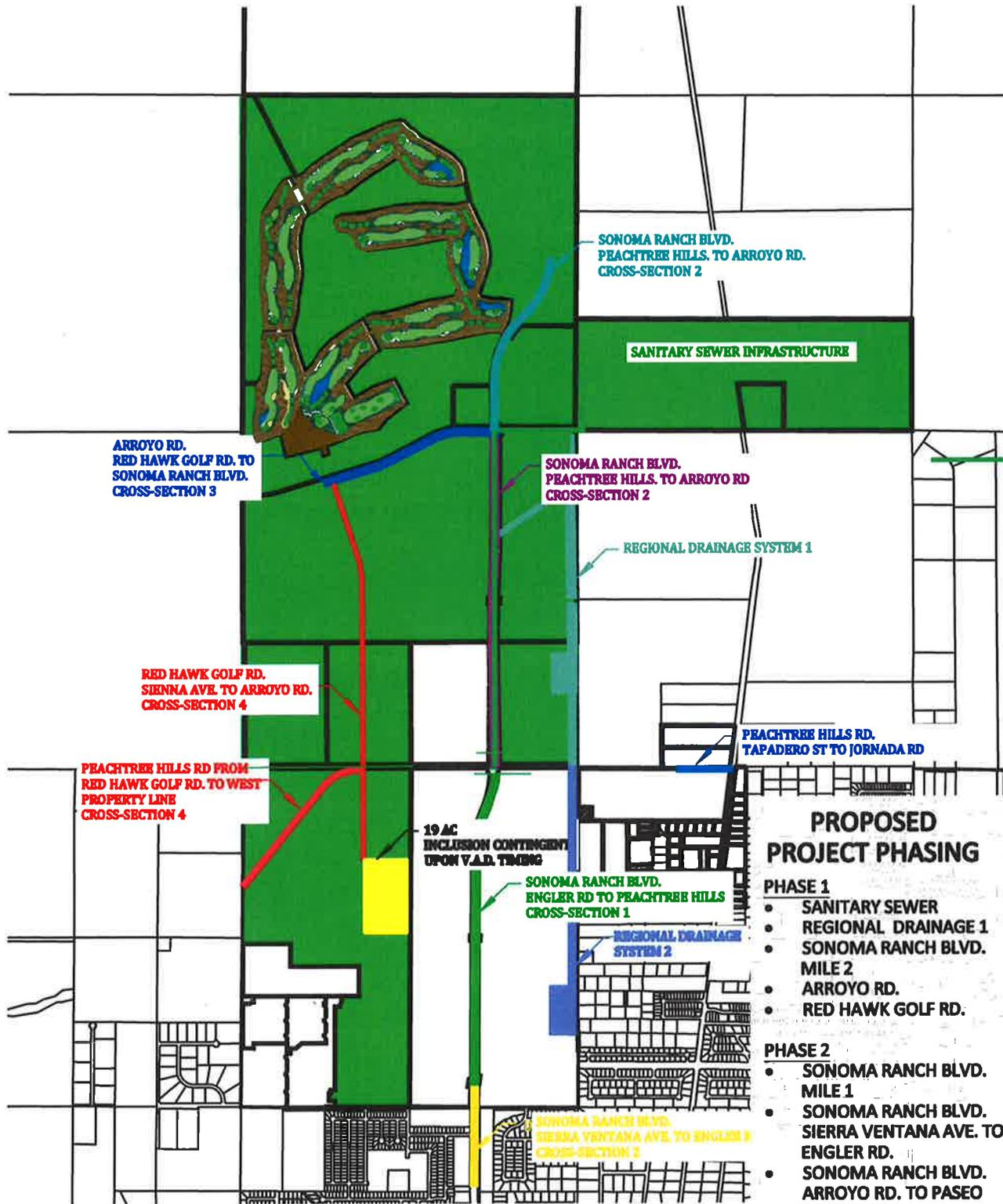
## DRAFT

10. Upon payment of the appropriate assessment to the City by Sierra Norte, the City shall execute a partial release of lien for that part of the Assessed Property. Said payment shall include principal and accrued simple interest, if any. The minimum size of each partial release must be at least one acre unless otherwise approved by the City.
11. Partial release of lien shall be requested by Sierra Norte and shall be directed to the City of Las Cruces, Office of the City Manager, P.O. Box 20000, Las Cruces, New Mexico 88004.
12. Should the City finance the Project through a loan which has no prepayment penalties, then nothing herein shall prohibit early payment by Sierra Norte of the balance or partial balance plus accrued simple interest to date. Early payment to include interest due is not subject to any penalties. The parties agree that their preference is for a loan for which no prepayment penalties will apply.
13. In accordance with financing provisions mutually agreed to by the parties, Sierra Norte shall make a minimum principal reduction payment every year, with the amount of said payment to be determined by the final amount and term of the financing. If complete payment has not been made by Sierra Norte at the scheduled payment of principal reduction and interest payments, then the entire remaining principal plus accrued interest shall be due and payable at that time with interest to be at the statutory rate until paid in full. Additionally, all remaining assessed property may be foreclosed upon with all costs and reasonable attorney fees to be paid by Sierra Norte.
14. Sierra Norte shall make all principal reduction and interest payments as determined and scheduled by the bond issuers or as required by the lender. Additionally, Sierra Norte shall make principal payments prior to completion of the Project as Assessed Properties are sold, exchanged, assigned, transferred, subdivided, developed, or included in a final plat that Sierra Norte wishes to record; such payments will be referred to as Early Payments. Such Early Payments, as well as other principal payments made by Sierra Norte outside the schedule of minimum principal reduction payments, shall be credited towards the next regularly scheduled principal reduction payment.
  - (b) Sierra Norte shall place \$ 350,000 in escrow upon successful bond sale or loan to ensure partial future principal and interest payments.
  - (c) Sierra Norte shall pay accrued interest either monthly, quarterly, or annually, as directed and billed by the City.
15. The interest rate charged to Sierra Norte shall be 1.0% (0.01) above the cost to the City for the bonds issued for the Project. Interest charged to Sierra Norte shall accrue when the City starts paying interest on the bonds issued for the Project.
16. If this Agreement is given to an attorney for enforcement of any provision, the party subject to any judgment by the Court shall be liable for reasonable attorney's fees and court costs to the prevailing party.

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17. This Agreement contains the entire agreement between the parties and supersedes any and all other Agreements and understandings, oral or written, whether previous to the execution hereof, or contemporaneous herewith.
18. Changes to this Agreement are not binding unless made in writing and signed by both parties.
19. This Agreement shall be recorded with the Dona Ana County Clerk and is binding upon and inures to the benefit of the successors and/or assigns of the parties. Sierra Norte shall not assign or transfer in any way any interest Sierra Norte may have in this Agreement, without express written consent of the City, which shall not be unreasonably withheld.
20. If any part of this Agreement is held to be invalid or unenforceable, such holding shall not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

# EXHIBIT 1



ARROYO RD.  
RED HAWK GOLF RD. TO  
SONOMA RANCH BLVD.  
CROSS-SECTION 3

RED HAWK GOLF RD.  
SIENNA AVE. TO ARROYO RD.  
CROSS-SECTION 4

PEACHTREE HILLS RD FROM  
RED HAWK GOLF RD. TO WEST  
PROPERTY LINE  
CROSS-SECTION 4

19 AC  
INCLUSION CONTINGENT  
UPON V.A.D. TIMING

SONOMA RANCH BLVD.  
ENGLER RD TO PEACHTREE HILLS  
CROSS-SECTION 1

REGIONAL DRAINAGE  
SYSTEM 2

SONOMA RANCH BLVD.  
SIENNA VENTANA AVE. TO ENGLER  
CROSS-SECTION 1

SONOMA RANCH BLVD.  
PEACHTREE HILLS. TO ARROYO RD.  
CROSS-SECTION 2

SANITARY SEWER INFRASTRUCTURE

SONOMA RANCH BLVD.  
PEACHTREE HILLS. TO ARROYO RD  
CROSS-SECTION 2

REGIONAL DRAINAGE SYSTEM 1

PEACHTREE HILLS RD.  
TAPADERO ST TO JORNADA RD

## PROPOSED PROJECT PHASING

- PHASE 1**
- SANITARY SEWER
  - REGIONAL DRAINAGE 1
  - SONOMA RANCH BLVD. MILE 2
  - ARROYO RD.
  - RED HAWK GOLF RD.
- PHASE 2**
- SONOMA RANCH BLVD. MILE 1
  - SONOMA RANCH BLVD. SIENNA VENTANA AVE. TO ENGLER RD.
  - SONOMA RANCH BLVD. ARROYO RD. TO PASEO VERDE
  - PEACHTREE HILLS RD.
  - REGIONAL DRAINAGE 2

## METRO VERDE V.A.D. PROPOSED IMPROVEMENTS AND PHASING

## EXHIBIT 2

Metro Verde PUD  
Development Agreement Proposal 2014

### Phase 1

	PROJECT	COST	NMGRT	ENGINEERING (NOT FINANCED)	TOTAL
1	Sanitary Sewer Infrastructure	\$684,117.00	\$54,301.79	\$82,094.04	\$738,418.79
2	Regional Drainage System	\$100,000.00	\$7,937.50	\$12,000.00	\$107,937.50
3	Sonoma Ranch Blvd Mile 2: Peachtree to Arroyo	\$2,689,786.00	\$213,501.76	\$322,774.32	\$2,903,287.76
4	Arroyo Rd: Red Hawk to Jornada Blvd	\$1,757,169.00	\$139,475.29	\$210,860.28	\$1,896,644.29
5	Red Hawk Golf Road: North Boundary of Metro Verde South Phase 3 to Arroyo Rd.	\$856,919.00	\$68,017.95	\$102,830.28	\$924,936.95
		<b>\$6,087,991.00</b>	<b>\$483,234.29</b>	<b>\$730,558.92</b>	<b>\$6,571,225.29</b>

### Phase 2

	PROJECT	COST	NMGRT	ENGINEERING (NOT FINANCED)	TOTAL
6	Sonoma Ranch Blvd Mile 1: Engler to Peachtree	\$2,015,623.00	\$159,990.08	\$241,874.76	\$2,175,613.08
7	Sonoma Ranch Blvd: Sierra Norte Heights to Engler	\$141,750.00	\$11,251.41	\$17,010.00	\$153,001.41
8	Sonoma Ranch Blvd Arroyo Rd. to Paseo Verde	\$810,833.00	\$64,359.87	\$97,299.96	\$875,192.87
9	Peachtree Hills Rd: Red Hawk Golf Rd. to West Boundary	\$1,186,745.00	\$94,197.88	\$142,409.40	\$1,280,942.88
10	Peachtree Hills Rd: Renando Rd. to Jornada Rd.	\$214,960.00	\$17,062.45	\$25,795.20	\$232,022.45
11	Regional Drainage System 2	\$200,000.00	\$15,875.00	\$24,000.00	\$215,875.00
		<b>\$4,569,911.00</b>	<b>\$362,736.69</b>	<b>\$548,389.32</b>	<b>\$4,932,647.69</b>

**Total Cost                    \$11,503,872.97**

# EXHIBIT 3



**PROPOSED ASSESSED AREA**