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**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item # 20 Ordinance/Resolution# 2759

For Meeting of July 6, 2015  
 (Ordinance First Reading Date)

For Meeting of July 20, 2015  
 (Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL       LEGISLATIVE       ADMINISTRATIVE

**TITLE: AN ORDINANCE CREATING A MUNICIPAL LIEN FOR THE CONSTRUCTION OF SONOMA RANCH BOULEVARD FROM SIERRA VENTANA AVENUE TO APPROXIMATELY ONE-HALF MILE NORTH OF ARROYO ROAD; ARROYO ROAD FROM RED HAWK GOLF ROAD TO SONOMA RANCH BOULEVARD; APPROXIMATELY ONE AND ONE-HALF 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 FOR THE PRE-DEVELOPMENT FLOWS ONLY AND ON THE REAL PROPERTY BENEFITTING FROM SAID CONSTRUCTION.**

**PURPOSE(S) OF ACTION:**

To create a municipal lien.

<b>COUNCIL DISTRICT: 3</b>		
<b>Drafter/Staff Contact:</b> Harry S. (Pete) Connelly	<b>Department/Section:</b> Legal/Deputy City Attorney	<b>Phone:</b> 541-2128
<b>City Manager Signature:</b> <i>[Signature]</i> 6/30/15		

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

On April 20, 2015, the Las Cruces City Council approved Resolution No. 15-205 authorizing the signing of Agreements with land owners for the construction of Sonoma Ranch Boulevard from Sierra Ventana Avenue to approximately one-half mile north of Arroyo Road; Arroyo Road from Red Hawk Golf Road to Sonoma Ranch Boulevard; approximately one and one-half 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 for the pre-development flows only and on the real property benefiting from said construction for the area surrounding the above referred to roadways and improvements.

The Agreement provides that the project cost of the above construction is to be secured by a lien in favor of the City on various properties in the amount of \$12,038,731.62. The Agreement further provides that on payment of certain amounts of money with simple interest, partial releases of lien may be granted by the City.

(Continue on additional sheets as required)

The City may obtain a municipal lien on the property which is the subject of construction by complying with NMSA 1978, § 3-36-1 (1965 as amended through 1981). The attached ordinance, if passed, will allow the City to obtain a municipal lien on the properties which benefit from the construction.

**SUPPORT INFORMATION:**

1. Ordinance.
2. Exhibit "A", Notice of Municipal Lien with property map attached.
3. Attachment "1", NMSA 1978, § 3-36-1 (1965 as amended through 1981).

**SOURCE OF FUNDING:**

Is this action already budgeted?  N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____.
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?  N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

N/A
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**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will enact the ordinance and allow a municipal lien to be filed on the properties which benefit from the roadway construction project.
2. Vote "No"; this will mean that the ordinance will not be enacted resulting in no municipal lien being filed.

(Continue on additional sheets as required)

3. Vote to "Amend", this action would allow the City Council to modify provisions of the ordinance, which modifications would have to comply with NMSA 1978, § 3-36-1 (1965 as amended through 1981).
4. Vote to "Table", this action would allow the City Council to table or postpone consideration of the ordinance and to direct staff accordingly.

**REFERENCE INFORMATION:**

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

(Continue on additional sheets as required)

COUNCIL BILL NO. 15-040  
ORDINANCE NO. 2759

AN ORDINANCE CREATING A MUNICIPAL LIEN FOR THE CONSTRUCTION OF SONOMA RANCH BOULEVARD FROM SIERRA VENTANA AVENUE TO APPROXIMATELY ONE-HALF MILE NORTH OF ARROYO ROAD; ARROYO ROAD FROM RED HAWK GOLF ROAD TO SONOMA RANCH BOULEVARD; APPROXIMATELY ONE AND ONE-HALF 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 FOR THE PRE-DEVELOPMENT FLOWS ONLY AND ON THE REAL PROPERTY BENEFITTING FROM SAID CONSTRUCTION.

The City Council is informed that:

**WHEREAS**, on April 15, 2015, the governing body passed Resolution No. 15-205, which approved a Development Agreement between Sierra Norte Holdings, LLC, Sierra Norte Development, Inc., and the City of Las Cruces (the "Agreement"); and

**WHEREAS**, The Agreement provides that the cost for the project construction of Sonoma Ranch Boulevard from Sierra Ventana Avenue to approximately one-half mile north of Arroyo Road; Arroyo Road from Red Hawk Golf Road to Sonoma Ranch Boulevard; approximately one and one-half 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 for the pre-development flows only and on the real property benefitting from said construction for the area surrounding the above roadways, utilities, and a regional drainage system for the pre-development flows only shall be secured by a municipal lien in favor of the City on the property of the land owners named in the Agreement; and

**WHEREAS**, to obtain a municipal lien in accordance with NMSA 1978, §3-36-1 (1965 as amended through 1981) it is necessary for the Las Cruces City Council to enact an ordinance creating such a lien.

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

**(I)**

**THAT** pursuant to NMSA 1978, §3-36-1 (1965 as amended through 1981) a municipal lien is hereby created on all the properties described on Exhibit "A" attached hereto and incorporated herein for the total amount of \$12,038,731.62, and the property so designated is owned by Sierra Norte Land Development, Inc., a New Mexico corporation and Sierra Norte Land Holdings, LLC, a New Mexico limited liability company.

**(II)**

**THAT** the City Clerk is authorized to give notice of this municipal lien as provided for by NMSA 1978, §3-36-1 (1965 as amended through 1981).

**(III)**

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

**DONE AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

APPROVED:

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

(SEAL)

VOTE:

Mayor Miyagishima: \_\_\_\_\_  
Councillor Silva: \_\_\_\_\_  
Councillor Smith: \_\_\_\_\_  
Councillor Pedroza: \_\_\_\_\_  
Councillor Small: \_\_\_\_\_  
Councillor Sorg: \_\_\_\_\_  
Councillor Levatino: \_\_\_\_\_

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

**NOTICE OF MUNICIPAL LIEN**

Pursuant to NMSA 1978, § 3-36-1 (1965 as amended thru 1981) the CMC, Interim City Clerk of the City of Las Cruces, New Mexico hereby gives notice that a municipal lien was created by ordinance as follows:

1. Ordinance No. \_\_\_\_\_ establishes the authority for this municipal lien.
2. The above Ordinance is the fact that the municipal lien is established.
3. The general purposes of this lien is to ensure the construction of Sonoma Ranch Boulevard from Sierra Ventana Avenue to approximately one-half mile north of Arroyo Road; Arroyo Road from Red Hawk Golf Road to Sonoma Ranch Boulevard; approximately one and one-half 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 for the pre-development flows only and on the real property benefiting from said construction for the property surrounding the above roadways including 1500.27 acres more or less.
4. The names of the record property owners against which this lien is established as determined from the records of the Assessor of Dona Ana County, New Mexico:
  - a. Sierra Norte Development, Inc., a New Mexico Corporation; and
  - b. Sierra Norte Land Holdings, LLC, a New Mexico Limited Liability Company.
5. The property descriptions against which this municipal lien is established are shown on Exhibit "A" attached hereto and incorporated herein.
6. The amount of this lien is \$12,038,731.62.
7. This lien is for more than one period and is established as of July 20, 2105, pursuant to the Agreement, approved by the City Council in Resolution No. 15-205, and executed by the City and the landowners listed in Paragraph 4 above.

CITY OF LAS CRUCES

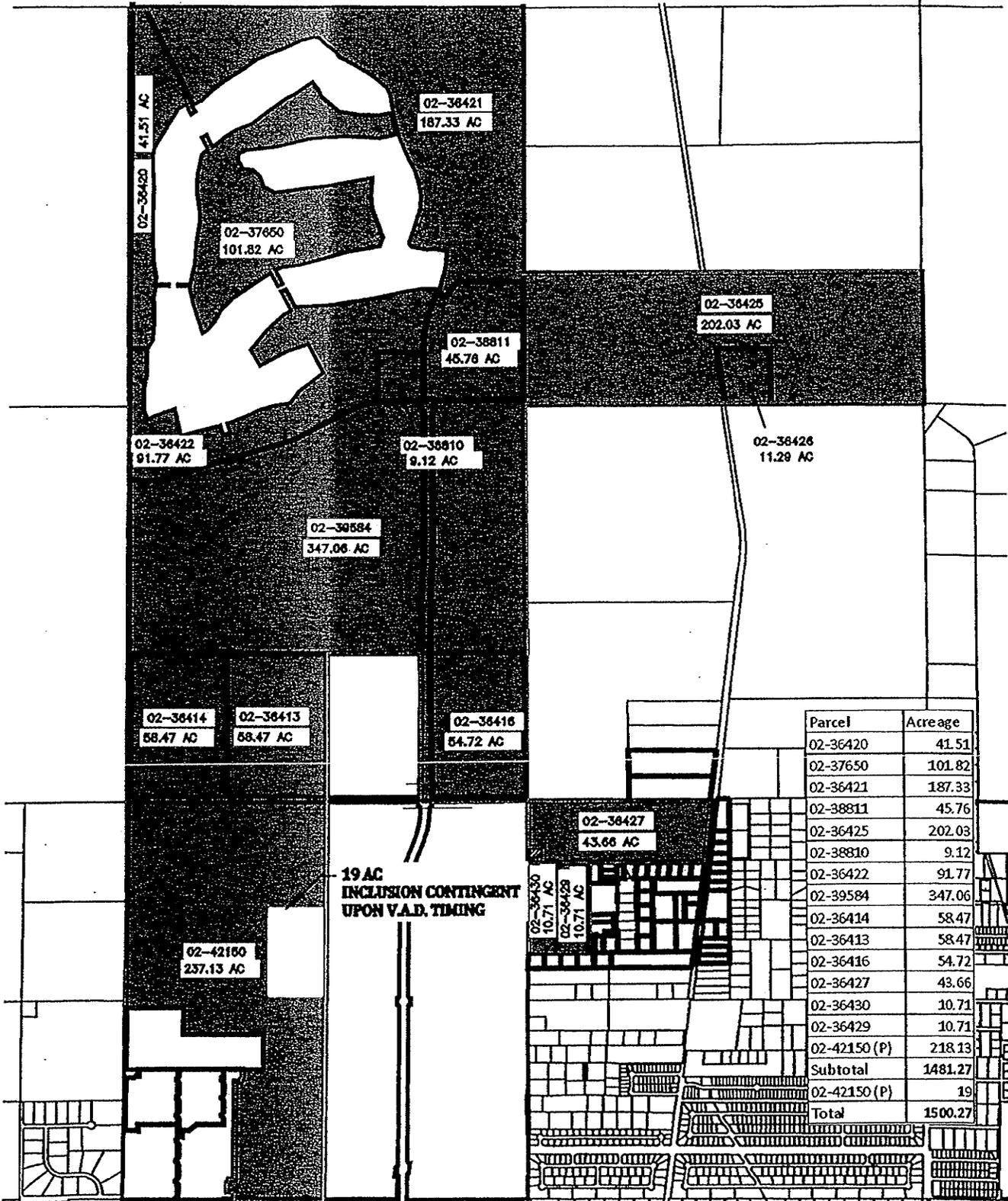
\_\_\_\_\_  
Linda Lewis, CMC, Interim City Clerk

STATE OF NEW MEXICO        )  
  )ss.  
COUNTY OF DONA ANA        )

The foregoing notice was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Linda Lewis, CMC, Interim City Clerk for the City of Las Cruces, New Mexico, a New Mexico municipal corporation, on behalf of said municipality.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



**PROPOSED ASSESSED AREA**

Exhibit "A" to Notice of Municipal Lien

## N. M. S. A. 1978, § 3-36-1

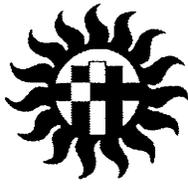
## § 3-36-1. Municipal lien; filing with county clerk; contents of lien; interest on principal amount of utility lien

A. The municipal clerk shall file in the office of the county clerk any notice of lien created by ordinance or under authority of law. The notice of lien shall include:

- (1) the number of the ordinance under which the lien is established;
- (2) the fact that a lien is established;
- (3) the general purpose of the lien;
- (4) the name of the owner of the property against which the lien is established as determined from the records of the county assessor;
- (5) a description of the property against which the lien is established;
- (6) the amount of the lien; and
- (7) if the lien is for more than one period of time, the date for which the lien is established.

B. A lien for charges or assessments which are provided for or fixed by any one ordinance or under authority of law may be included in the same notice of lien, and it shall not be necessary to file separate liens against the separate properties. The lien shall be attested in the name of the municipal clerk under the seal of the municipality.

C. The principal amount of any lien imposed for a municipal utility charge or assessment shall bear interest at the rate of twelve percent per year from the date of filing the notice of the lien unless otherwise provided by law.



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## COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

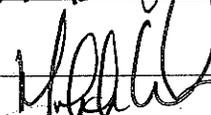
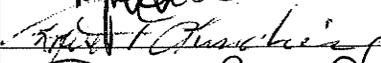
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Purchasing Manager's Request to Contract (PMRC) {Required?}    Yes     No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact		541-2128	6/29/15
Department Director		541-2128	29 JUNE 2015
Other			
Assistant City Manager /CAO Management & Budget Manager		541-2100 541-2106	6/29/15 6/29/15
Assistant City Manager/COO		541-2271	6/30/15
City Attorney		541-2128	29 June 2015
City Clerk - Interim		541-2115	6/30/15