Board of Supervisors

Patrick G. Call
Chairman
District 1

Ann English
Vice-Chairman
District 2

Richard R. Searle
Supervisor
District 3

Michael J. Ortega
County Administrator

James E. Vlahovich
Deputy County Administrator

Katie A. Howard
Clerk

AGENDA FOR REGULAR BOARD MEETING
Tuesday, January 4, 2011 at 10:00 AM
BOARD OF SUPERVISORS HEARING ROOM
1415 MELODY LANE, BUILDING G, BISBEE, AZ 85603

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

PLEDGE OF ALLEGIANCE

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING

ROLL CALL
Members of the Cochise County Board of Supervisors will attend either in person or by telephone, video or internet conferencing.

Note that some attachments may be updated after the agenda is published. This means that some presentation materials displayed at the Board meeting may differ slightly from the attached version.

CONSENT

Board of Supervisors

1. Approve the Minutes of the regular meeting of the Board of December 21, 2010.

Community Development

2. Adopt Resolution 11-1 appointing Karen Riggs, P.E., as the County Engineer.

Court Administration

3. Approve the Fiscal Year 2010-2011 Judicial Funding Agreements in the amount of $3,194,098.31, as set forth on the attached exhibit.

Finance

4. Approve Demands and budget amendments for operating transfers.

Fleet

5. Approve the award of Invitation for Bids (IFB) No. 11-24-FMD-04 to Sand Chevrolet for the purchase of three vehicles for the Fleet Management Department in the amount of $71,186.12 plus applicable sales tax.

Health

6. Approve the Amendment to the Cochise County Delegation Agreement between the Arizona Department of Health Services and the Cochise County Health Department, delegating the added responsibility of conducting food service inspections at the Cochise County jails and detention centers to the Cochise County Health Department, and extending the agreement for the period from 7/1/10 through 6/30/17.

PUBLIC HEARINGS

Community Development

7. Approve Docket SU-09-08A (Elder Care for Life), an appeal of a November 10, 2010 Planning Commission decision on a Special Use Modification request.

ACTION

8. Approve the new IGA# HG150048, County Nutrition Services, between the Arizona Dept of Health Services (ADHS) and the Cochise County Health Department, in the amount of $187,500, for the period of 10/1/2010 to 9/30/2011.

REPORT BY MICHAEL J. ORTEGA, COUNTY ADMINISTRATOR -- RECENT AND PENDING COUNTY MATTERS

CALL TO THE PUBLIC

This is the time for the public to comment. Members of the Board may not discuss items that are not specifically identified on the agenda.

SUMMARY OF CURRENT EVENTS

Report by District 1 Supervisor, Patrick Call

Report by District 2 Supervisor, Ann English

Report by District 3 Supervisor, Richard Searle

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Chris Mullinax, Safety/Loss Control Analyst at (520) 432-9720, FAX (520) 432-9716, TDD (520) 432-8360, 1415 Melody Lane, Building F, Bisbee, Arizona 85603.

"PUBLIC PROGRAMS, PERSONAL SERVICE"

Consent Item #: 1.

Regular Board of Supervisors Meeting **Board of Supervisors**

Date: 01/04/2011

Minutes

Submitted By: Arlethe Rios
Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Recommendation:

Document Signatures:

# of ORIGINALS Submitted for Signature:

NAME of PRESENTER: n/a

TITLE of PRESENTER: n/a

Mandated Function?:

Source of Mandate or Basis for Support?:

Information

Agenda Item Text:

Approve the Minutes of the regular meeting of the Board of December 21, 2010.

Background:

Minutes

Department's Next Steps (if approved):

Signed minutes routed for processing and posted on the internet.

Impact of NOT Approving/Alternatives:

n/a

To BOS Staff: Document Disposition/Follow-Up:

Send signed minutes to Recorder's Office to microfiche.

Attachments

12.21.10 Minutes

PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
REGULAR BOARD MEETING HELD 0N
TUESDAY, DECEMBER 21, 2010

A regular board meeting of the Cochise County Board of Supervisors was held on Tuesday, December 21, 2010 at 10:00 a.m. in the Board of Supervisors' Hearing Room, 1415 Melody Lane, Building G, Bisbee, Arizona. In attendance were Patrick Call, Chair; Ann English, Vice-Chairman; Richard Searle, Supervisor; Michael Ortega, County Administrator; Britt Hanson, Chief Civil Deputy Attorney; and Katie Howard, Clerk of the Board.

Chairman Call called the meeting to order at 10:00 a.m.

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

PLEDGE OF ALLEGIANCE

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING

ROLL CALL – All three supervisors present

CONSENT AGENDA

Attorney
Item 1
APPROVE THE PROPOSED SETTLEMENT OF THE TAX APPEAL IN RICHARD AND DEBRA HOLMAN V. COCHISE COUNTY, TAX CASE NO. ST2010-000702 (ASSESSOR PARCEL NOS. 410-08-151-11, 410-08-078-3, 410-08-135-5, 410-08-145-4, AND 410-08-152-4), NOW PENDING IN THE ARIZONA TAX COURT, A DIVISION OF THE SUPERIOR COURT OF AND FOR MARICOPA COUNTY.

Board of Supervisors
Item 2
APPROVE THE 2011 COCHISE COUNTY CALENDAR REFLECTING THE SCHEDULE OF THE REGULAR BOARD OF SUPERVISOR MEETINGS FOR THE CALENDAR YEAR 2011, THE 2011 HOLIDAYS AND PAY DAYS, AND AUTHORIZE THE CLERK TO POST THE PUBLIC NOTICE OF THE 2011 SCHEDULE.

Item 3
APPROVE THE APPOINTMENTS OF DAN ABRAMS, DISTRICT 1 AND GERALD EBERWEIN, DISTRICT 2 TO FOUR YEAR TERMS ON THE BOARDS OF ADJUSTMENT, BEGINNING JANUARY 1, 2011 AND ENDING ON DECEMBER 31, 2014.

Item 4
APPROVE THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF DECEMBER 14, 2010.

Finance
Item 5
ADOPT RESOLUTION 10-90 AUTHORIZING REVISIONS TO THE COCHISE COUNTY CAPITAL ASSET POLICY, CHANGING THE DEPRECIATION CALCULATION METHOD FOR THE FIRST AND LAST MONTH OF AN ASSETS' USEFUL LIFE.

Item 6
APPROVE DEMANDS AND BUDGET AMENDMENTS FOR OPERATING TRANSFERS.

Warrant No. 39444-39547, 39578-39870 and 39872-40034 were issued in the amount of $2,224,278.03.

Pursuant to A.R.S. §11-217(C), the published minutes shall include all demands and warrants approved by the Board in excess of one thousand dollars except that multiple demands and warrants from a single supplier or individual under one thousand dollars whose cumulative total exceeds one thousand dollars in a single reporting period shall also be published. The voided warrants are listed below:

Fund	Vendor	Amount
131	Town & Country PTSO	$10.00

100	Jose Rodolfo Martinez Ortega	36.80
100	USAA Subrogee Crockett	84.03
314	Tycee Evans	625.00

Issued warrants are listed as an attachment at the end of the minutes.

Sheriff
Item 7
APPROVE GRANT NUMBER HT20-10-2711 BETWEEN THE CITY OF TUCSON AND THE SHERIFF'S OFFICE TO PROVIDE $10,000 IN OVERTIME FUNDING FOR DOMESTIC HIGHWAY ENFORCEMENT AS PART OF THE HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) PROGRAM, FOR THE PERIOD OF JANUARY 1, 2010 THROUGH DECEMBER 31, 2011.

Supervisor Searle made a motion to approve items 1 through 7 of the Consent Agenda. Vice-Chairman English seconded the motion and it carried unanimously.

PUBLIC HEARINGS

Board of Supervisors
Item 8
ADOPT ORDINANCE 41-10, DOCKET R-09-02, ENTITLED THE "COCHISE COUNTY HAZARD ABATEMENT ORDINANCE" TO ABATE/REMOVE RUBBISH, TRASH, WEEDS, FILTH, DEBRIS OR DILAPIDATED BUILDINGS WHICH CONSTITUTE A HAZARD TO PUBLIC HEALTH AND SAFETY.

Vice-Chairman English made a motion to adopt Ordinance 41-10, Docket R-09-02, entitled the "Cochise County Hazard Abatement Ordinance" to abate/remove rubbish, trash, weeds, filth, debris or dilapidated buildings which constitute a hazard to public health and safety. Supervisor Searle seconded the motion.

Mr. Carlos De La Torre, Community Development Director, presented this item using a PowerPoint presentation. Mr. De La Torre explained that this item came out of a Work Session in June 2009. Staff developed and took item to the Planning and Zoning Commission on December 8, 2010 and their recommendation was to forward the Ordinance to the Board for approval. He explained that the purpose of the revisions were to align the County Ordinance with the state law. He pointed out the major revisions: New format; added definitions to make it much clearer and easier to follow.

Mr. De La Torre reviewed the sections and major provisions of the Ordinance and explained the 15-day appeal process and added that the other appeal processes within Planning and Zoning are also 15-day appeals.

Mr. Hanson explained the benefits of having a consistent appeal period for all Planning and Zoning appeals. He added that there have been no appeals of Hazard Abatement in all the years that he or Mr. Vlahovich have been with the County.

Vice-Chairman English asked if it made any difference whether there were differences in parcel size, in terms of whether something was a hazard. Mr. De La Torre stated that there was no difference in how the Ordinance would be applied, regardless of parcel size.

Supervisor Searle asked about the assessment schedule, which he pointed out, is new. The provisions of the Ordinance allow people to repay the money over extended periods of time—he pointed out that if the County's cost was $10,000 and the County allowed people to repay the County over ten years, it amounted to providing a loan for free, essentially. Mr. Hanson explained that the statutory changes that prompted this rewrite included a provision for repayment over time.

Supervisor Searle asked about the new 180 day commencement of the abatement period outlined in section II F, titled Removal by Board. Mr. Hanson responded that if the County did not abate the hazard within 180 days, they had to restart the process. Supervisor Searle said that this merely put more work on staff. Supervisor Searle, Mr. De La Torre and Mr. Hanson agreed that they do not have an issue with removing the 180 day requirement.

Chairman Call opened the public hearing.

Ms. Helene Jackson handed out a list of questions she would like to see addressed and read those questions aloud.

Mr. Mike Jackson stated that he sent a 3-page e-mail to the Board last week and gave a copy to the Clerk of the Board along with a list of questions for the Board. He summarized the email from the Cochise County Individual and Property Rights Association (CCIPRA) and added two more points.

No one else wished to address the Board and Chairman Call closed the public hearing.

Supervisor Searle stated that there were some things in the old Ordinance that he liked, which are not in the new Ordinance. He said he did not like the definition of the dilapidated building and other definitions and other language in the ordinance.

Chairman Call said he was concerned with making decisions on the fly today and suggested tabling the item and holding a Work Session to discuss in depth.

Supervisor Searle agreed and stated that he really liked the commentary on page three of the old Ordinance and it should not be dropped from the new Ordinance.

Mr. Ortega stated that the Work Session could be held on January 4th.

Supervisor Searle made a motion to table the item until the February 8th Board meeting. Vice-Chairman English seconded the motion and it carried unanimously.

ACTION AGENDA

Board of Supervisors
Item 9
AUTHORIZE THE COUNTY ADMINISTRATOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING TO PAY FOR A PORTION OF AN ANALYSIS OF THE SCIENTIFIC AND ECONOMIC RATIONALE BEHIND THE US FISH AND WILDLIFE SERVICE'S PROPOSED DESIGNATION OF SOME AREAS IN COCHISE COUNTY AS CRITICAL HABITATS FOR THE SPIKEDACE AND LOACH MINNOW AND CHANGING THEIR STATUS FROM THREATENED TO ENDANGERED.

Supervisor Searle made a motion to authorize the County Administrator to enter into a memorandum of understanding to pay for a portion of an analysis of the scientific and economic rationale behind the US Fish and Wildlife Service's proposed designation of some areas in Cochise County as critical habitats for the Spikedace and Loach Minnow and changing their status from Threatened to Endangered. Vice-Chairman English seconded the motion.

Mr. Michael Ortega, County Administrator, presented this item. Mr. Ortega explained that this issue was brought to the Board several weeks ago. The United States Fish and Wildlife Service (USFWS) is planning to designate several areas as critical habitat, including some in Cochise County. The County has two other partners at this point to help cover the costs of gathering scientific and economic data: the City of Sierra Vista and the Arizona/New Mexico Coalition of Counties. There have also been conversations with the Arizona Cattle Growers Association and the Arizona Public Lands Association. Proposed costs are approximately $5000; there may be slightly more costs, but will not know until after analysis is completed. He added that December 27th is the deadline for comments, followed by a request for a public hearing. The Coalition is the point of contact but it does not preclude the Board from commenting.

Vice-Chairman English stated that it is very important to gather data to support decisions the Board makes and that seems to be the process that we are talking about here.

Chairman Call added that it is a good thing to form coalitions and partnerships to better effectiveness.

Chairman Call called for the vote and it carried unanimously.

Item 10
AUTHORIZE THE COUNTY ADMINISTRATOR TO PREPARE AND SUBMIT A COMMENT LETTER TO US FISH & WILDLIFE STATING THE BOARD'S POSITION REGARDING THE ESTABLISHMENT OF A CRITICAL HABITAT IN COCHISE COUNTY FOR THE SPIKEDACE AND LOACH MINNOW AND REGARDING THE PROPOSED CHANGE OF THEIR STATUS FROM THREATENED TO ENDANGERED.

Vice-Chairman English made a motion to authorize the County Administrator to prepare and submit a Comment

Letter to US Fish & Wildlife in opposition to the establishment of a critical habitat in Cochise County for the Spikedace and Loach Minnow and stating the Board's position regarding the proposed change of their status from threatened to endangered, based on the data submitted to the Board. Supervisor Searle seconded the motion.

Mr. Michael Ortega, County Administrator, presented this item. Mr. Ortega stated that he is comfortable that the data will show that the Board should be in opposition to but that he does not think he will have all the data until the 26th or 27th and the comments letter is due on the 27th. He explained that there is a website to submit comments electronically and he will do that, and follow with a letter.

Chairman Call said he could be available then to sign the letter.

Chairman Call called for the vote and it carried unanimously.

REPORT BY MR. MIKE ORTEGA, COUNTY ADMINISTRATOR, ON RECENT AND PENDING COUNTY MATTERS

Mr. Michael Ortega stated that on January 4th he would like to bring decision packages to the Board for consideration and would provide a summary later today.

CALL TO THE PUBLIC – Chairman Call opened the Call to the Public. Mr. Jack Cook addressed the Board on matters of personal concern. No one else wished to address the Board and Chairman Call closed the Call to the Public.

SUMMARY OF CURRENT EVENTS BY BOARD MEMBERS

Item 11
REPORT BY SUPERVISOR PAT CALL, DISTRICT NO. 1
Chairman Call said that the Rural Water Use Study promised by University of Arizona looks like it will not be ready and he asked Mr. Ortega to follow up with a better use of those funds.

REPORT BY SUPERVISOR ANN ENGLISH, DISTRICT NO. 2
Vice-Chairman English stated that there are a lot of social things going on this time of year which provides an opportunity to spend time with constituents and addressing their concerns. She also spent some time with the Clerk of the Court, Denise Lundin.

REPORT BY SUPERVISOR RICHARD SEARLE, DISTRICT NO. 3
Supervisor Searle met in St. David yesterday with the Coronado Resource Conservation and Development Council (RC&D) regarding the Upper San Pedro River project and recognized Apache Nitrogen's assistance and contribution.

Chairman Call adjourned the meeting at 10:47 a.m.

APPROVED:

_____
Patrick Call, Chairman

ATTEST:

_____
Katie Howard, Clerk of the Board

((SUPPORTING DOCUMENTATION IS AVAILABLE AT THE BOARD OF SUPERVISORS' OFFICE) at (520) 432-9200, FAX (520) 432-5016, TDD (520) 432-8360, 1415 Melody Lane, Building G, Bisbee, Arizona 85603.

39135	12/09/2010	AccentCare	$36,695.84
39136	12/09/2010	Acumen Fiscal Agent LLC	$2,732.87
39137	12/09/2010	Adobe Gastroenterology PC	$138.23
39138	12/09/2010	Advantage Medical & Oxygen Supply	$674.74
39139	12/09/2010	Agave Surgical Associates, PC	$306.42
39140	12/09/2010	AKDHC, LLC	$372.44
39141	12/09/2010	American Geriatric Ent. Inc.	$29.37
39142	12/09/2010	AngioCare, LLC	$311.80
39143	12/09/2010	Apria Healthcare Inc	$6,339.53
39144	12/09/2010	Arenas, Miguel MD	$225.75
39145	12/09/2010	Arizona Community Physicians	$164.67
39146	12/09/2010	AZ Family Care Associates (AFCA)	$406.23
39147	12/09/2010	AZ Inpatient Medicine Associates	$656.36
39148	12/09/2010	Arizona Institute of Urology	$195.75
39149	12/09/2010	Arizona Medical Transit	$346.92
39150	12/09/2010	Arizona Oncology Associates	$301.90
39151	12/09/2010	Arizona Pulmonary Specialists, LTD	$5.50
39152	12/09/2010	Associated Internists of Tucson	$126.58
39153	12/09/2010	AZ Ambulance of Douglas Inc.	$1,890.30
39154	12/09/2010	AZ World Express	$6,554.12
39155	12/09/2010	Benson Hospital Corporation	$179.90
39156	12/09/2010	Bisbee, City of (Ambulance)	$2,630.04
39157	12/09/2010	Calonje, Diego H. MD	$17.95
39158	12/09/2010	Canyonlands Community Health	$83.57
39159	12/09/2010	Carefree Senior Living of CA	$21,083.10
39160	12/09/2010	Carondelet Health Care Corp	$144.50
39161	12/09/2010	Casa de las Montanas	$6,961.53
39162	12/09/2010	Catholic Community Services	$263.50
39163	12/09/2010	Chiricahua Community Health	$556.26
39164	12/09/2010	Clifford, Martin P.	$112.90
39165	12/09/2010	Clinic for Chest Diseases	$63.18
39166	12/09/2010	Cochise Ear Nose/Throat Assoc.	$55.54
39167	12/09/2010	Cochise Heart Center, PLLC	$58.40
39168	12/09/2010	Cochise Oncology, LLC	$4.71
39169	12/09/2010	Cochise Surgical Care	$3.14
39170	12/09/2010	Community Healthcare Douglas	$5,719.93
39171	12/09/2010	Community Provider Enrichment Services (CPES)	$9,028.71
39172	12/09/2010	Copper Queen Hospital	$1,699.72
39173	12/09/2010	Desert Cardiovascular Group	$11.00
39174	12/09/2010	Desert Haven Care Center	$6,892.10
39175	12/09/2010	Diagnostic Pathology Consultants	$23.39
39176	12/09/2010	Dialysis Center Inc.	$5,810.66
39177	12/09/2010	District Medical Group	$56.40
39178	12/09/2010	Douglas ARC Inc.	$3,790.08
39179	12/09/2010	Douglas Family Care PLLC	$261.23
39180	12/09/2010	Edgar, Gary W. DDS	$386.45
39181	12/09/2010	Elham Medical International	$228.95
39182	12/09/2010	Emergency Room Associcates	$7.88
39183	12/09/2010	Ev Lutheran Good Samaritan Soc	$93.99
39184	12/09/2010	Family Medical Center, P LLC	$242.53
39185	12/09/2010	Fry Fire District	$103.14
39186	12/09/2010	GAMBRO Healthcare-Sierra Vista	$1,612.31
39187	12/09/2010	General Dental	$95.20
39188	12/09/2010	Gila Health Resources	$4.71
39189	12/09/2010	Gila Valley Clinic, PC	$259.37
39190	12/09/2010	Goldberg, Gerald MD	$55.78
39191	12/09/2010	Healthcare Innovations, Inc.	$366.79
39192	12/09/2010	Heart Felt Help	$38,158.50
39193	12/09/2010	Helmsetter, B. Jean, M.A.	$705.10
39194	12/09/2010	Holland Psychiatric, PLLC	$725.52
39195	12/09/2010	Hospitalists of Arizona	$433.48
39196	12/09/2010	House of Hope	$1,541.30
39197	12/09/2010	Inpatient Medical Consultants	$93.42
39198	12/09/2010	KeyaMed Inc.	$423.13
39199	12/09/2010	Kindred Nursing Centers West, LLC	$3,437.50
39200	12/09/2010	Kindred Nursing Centers West, LLC	$9,635.19
39201	12/09/2010	Kords Ambulance Service	$1,997.94
39202	12/09/2010	Laboratory Corp of America	$44.46
39203	12/09/2010	Lifeline Systems, Inc.	$28.00
39204	12/09/2010	Maddur, Jaya MD	$61.04
39205	12/09/2010	McMaster, Paul B. DPM	$34.80
39206	12/09/2010	Millennium Medical Supply, Inc	$211.87
39207	12/09/2010	Mt Graham Community Hospital	$2,899.46
39208	12/09/2010	Neurological Associates of Tucson	$404.47
39209	12/09/2010	No Cochise Community Hospital, Inc.	$809.01
39210	12/09/2010	Old Pueblo Anesthesia	$200.02
39211	12/09/2010	Old Pueblo Cardiology PC	$17.46
39212	12/09/2010	Pacific Mobile Diagnostic	$7.88
39213	12/09/2010	Palo Verde Homecare LLC dba Tucson House Calls	$6.65
39214	12/09/2010	Patel Medical Clinic, PLLC	$472.02
39215	12/09/2010	Pathology Specialists of Az	$41.62
39216	12/09/2010	Pima Heart Physicians PC	$68.24
39217	12/09/2010	PISA	$55.86
39218	12/09/2010	Portable Imaging of Arizona	$59.44
39219	12/09/2010	Portable Xray of Arizona	$220.03
39220	12/09/2010	Progressive Healthcare Group	$25.02
39221	12/09/2010	Pulmonary Associates of So AZ	$494.23
39222	12/09/2010	R A S W, P.C. Retina Assoc.SW	$68.80
39223	12/09/2010	Radiologists of Sierra Vista	$136.28
39224	12/09/2010	Radiology Ltd	$319.46
39225	12/09/2010	Reliable Medical	$1,008.92
39226	12/09/2010	Renal Care Associates	$577.42
39227	12/09/2010	RF Eye PC dba Cochise Eye & Laser	$208.48
39228	12/09/2010	Saddle Gap Emergency Physician	$153.65
39229	12/09/2010	Saguaro Podiatry Associates	$17.49
39230	12/09/2010	Saguaro Surgical PC	$5.17
39231	12/09/2010	San Pedro Family Care PLC	$19.72
39232	12/09/2010	Santa Cruz Radiology, LLC	$31.62
39233	12/09/2010	Santa Rosa Clinical Center LLC	$96,295.15
39234	12/09/2010	Schildhauer Center, LLC	$67.08
39235	12/09/2010	Schryver Medical AZ	$87.48
39236	12/09/2010	Scottsdale Village Square	$4,613.80
39237	12/09/2010	Sierra Vista Diagnostics	$49.90
39238	12/09/2010	Sierra Vista Emergency Physicians	$791.63
39239	12/09/2010	Southern AZ Infectious Disease Specialists, PLC	$2,099.05
39240	12/09/2010	Southwest Ambulance/86-0434455	$673.91
39241	12/09/2010	Southwest Kidney Institute PLC	$4.71
39242	12/09/2010	Southwestern Eye Center, Ltd	$304.04
39243	12/09/2010	Standage, Gregg P. MD	$13.16
39244	12/09/2010	Stronghold Emergency Physician	$62.00
39245	12/09/2010	Sunset Hills Care & Rehab, Inc	$16.13
39246	12/09/2010	SWEA, P.C.	$16.75
39247	12/09/2010	Tiburon Diagnostic Labratory	$96.98
39248	12/09/2010	Tucson Gastroenterology Specialists	$50.24
39249	12/09/2010	Tucson Heart Group	$125.07
39250	12/09/2010	Tucson Inpatient Medicine PLLC	$120.04
39251	12/09/2010	Tucson Medical Center	$234.86
39252	12/09/2010	Tucson Orthopaedic Institute	$38.55
39253	12/09/2010	Tucson Pulmonolgy PC	$140.43
39254	12/09/2010	Twena, Mordechai F. MD PLLC	$86.79
39255	12/09/2010	United Pathology Inc	$52.00
39256	12/09/2010	University Physicians, Inc.	$45.95
39257	12/09/2010	Urological Associates / Southern AZ	$13.16
39258	12/09/2010	Walker Family Medicine	$162.74
39259	12/09/2010	Wang, Kaidong, MD PhD	$74.14
39260	12/09/2010	Western Neurosurgery Ltd	$2,569.35
39261	12/08/2010	Alley Carpet & Flooring, Inc.	$3,352.98
39262	12/08/2010	Az Public Service Co	$1,378.21
39263	12/08/2010	Az Public Service Co	$1,874.99
39264	12/08/2010	Az Water Company	$388.59
39265	12/08/2010	Az Water Company	$145.78
39266	12/08/2010	Az Water Company	$157.84
39267	12/08/2010	Bella Vista Water Company	$193.92
39268	12/08/2010	Benson, City of	$30.35
39269	12/08/2010	Bisbee, City of	$7,092.22
39270	12/08/2010	Bowie Water Improvement Dist	$39.79
39271	12/08/2010	Cochise Cnty Farmers Assoc.	$1,434.92
39272	12/08/2010	Culligan of Tucson	$109.07
39273	12/08/2010	Curtis Landscape & Irrigation	$130.00
39274	12/08/2010	Douglas, City of	$164.26
39275	12/08/2010	Douglas, City of	$48.26
39276	12/08/2010	Douglas, City of	$193.08
39277	12/08/2010	Elfrida Domestic Water US	$11.42
39278	12/08/2010	LPB Energy Management	$45.22
39279	12/08/2010	Pueblo del Sol Water Company	$51.66
39280	12/08/2010	QWEST	$96.04
39281	12/08/2010	QWEST	$163.83
39282	12/08/2010	QWEST	$150.05
39283	12/08/2010	QWEST	$32.93

39284	12/08/2010	QWEST	$33.04
39285	12/08/2010	QWEST	$131.11
39286	12/08/2010	Recall Secure Destruction Service	$160.74
39287	12/08/2010	Southwest Gas Corporation	$694.95
39288	12/08/2010	Sulphur Springs Valley Electri	$534.88
39289	12/08/2010	Sulphur Springs Valley Electri	$50.77
39290	12/08/2010	Sulphur Springs Valley Electri	$46.00
39291	12/08/2010	Sulphur Springs Valley Electri	$123.17
39292	12/08/2010	Sulphur Springs Valley Electri	$182.13
39293	12/08/2010	Sulphur Springs Valley Electri	$49.70
39294	12/08/2010	USA Mobility Wireless, Inc.	$40.20
39295	12/08/2010	Valley Telephone Co-op, Inc.	$102.51
39296	12/08/2010	Verizon Wireless	$135.76
39297	12/08/2010	Verizon Wireless	$110.97
39298	12/08/2010	Whetstone Water District	$30.61
39299	12/08/2010	Willcox, City of	$535.52
39300	12/08/2010	Willcox, City of	$167.65
39301	12/08/2010	Willcox, City of	$923.79
39302	12/09/2010	ADOA-Risk Management	$9,733.75
39303	12/09/2010	Manring, D Gene	$300.00
39304	12/09/2010	A P C O International	$92.00
39305	12/09/2010	Accurint	$152.50
39306	12/09/2010	Alex Espinosa's Douglas Fun Home	$500.00
39307	12/09/2010	Alternative Counseling Service, Inc	$1,252.00
39308	12/09/2010	ARAMARK Services, Inc.	$32,834.58
39309	12/09/2010	AZ Dept of Environmental Quality	$17,041.21
39310	12/09/2010	Arizona Department of Public Safety	$2,858.97
39311	12/09/2010	Arizona Department of Revenue	$15.27
39312	12/09/2010	Arizona Department of Revenue	$7,005.14
39313	12/09/2010	Arizona Department of Transportation	$5,868.26
39314	12/09/2010	Arizona Radiation Regulatory Agency	$42.00
39315	12/09/2010	AZ State Prison Complex-Fort Grant	$130.00
39316	12/09/2010	AZ State Prison Complex-Fort Grant	$73.73
39317	12/09/2010	AZ Dept of Corrections - Douglas	$555.50
39318	12/09/2010	AZ Dept of Corrections - Douglas	$977.75
39319	12/09/2010	AZ Dept of Corrections - Douglas	$953.54
39320	12/09/2010	Az Public Service Co	$204.91
39321	12/09/2010	B & D Lumber & Hardware	$1,154.58
39322	12/09/2010	Bahn, James C.	$232.30
39323	12/09/2010	Baker & Taylor	$561.74
39324	12/09/2010	Benson Police Department	$1,308.80
39325	12/09/2010	Carson, Stephen L PhD	$975.00
39326	12/09/2010	CEMEX, Inc. dba CEMEX CONSTRUCTION MATERIALS S., L	$455.18
39327	12/09/2010	Centennial Contractors Enterprises, Inc.	$54,686.88
39328	12/09/2010	Center Point Publishing	$301.95
39329	12/09/2010	Certified Folder Display	$413.00
39330	12/09/2010	Chivers North America, Inc. dba: AudioGO	$307.80
39331	12/09/2010	Cochise Enterprises, LLC	$10,684.80
39332	12/09/2010	Cochise Lock & Safe	$609.56
39333	12/09/2010	Cochise Private Industry Councel	$35,333.00
39334	12/09/2010	Copper Chapter of NIGP	$160.00
39335	12/09/2010	Copygraphix Inc	$21,052.26
39336	12/09/2010	Cottingham, Ed	$105.00
39337	12/09/2010	CRM of America LLC	$1,409.21
39338	12/09/2010	Demco Inc.	$76.77
39339	12/09/2010	Desert Hawk Publications, Inc.	$3,600.00
39340	12/09/2010	Desert Scale & Weighing Eq Inc	$2,283.75
39341	12/09/2010	Direct TV	$24.83
39342	12/09/2010	Douglas Dispatch	$55.51
39343	12/09/2010	Douglas, City of	$98.52
39344	12/09/2010	Douglas, City of	$324.00
39345	12/09/2010	EcoWater of Sierra Vista	$70.00
39346	12/09/2010	English, Ann	$1,302.84
39347	12/09/2010	Enriquez, Aurora O.	$380.00
39348	12/09/2010	Excel Print Communications	$550.23
39349	12/09/2010	Excel Print Communications	$1,994.13
39350	12/09/2010	Federal Express Corporation	$72.64
39351	12/09/2010	Forensic Science Services, Inc.	$3,062.50
39352	12/09/2010	Granite Construction Company	$806.01
39353	12/09/2010	Greater Arizona Central Credentialing	$900.00
39354	12/09/2010	Hardware.Com	$28,726.01
39355	12/09/2010	Hatfield Funeral Home Inc	$500.00
39356	12/09/2010	Haun, Melinda R.N. CHPN	$100.00
39357	12/09/2010	Honorable Christopher T. Whitten	$202.00
39358	12/09/2010	Infiniti Wireless, Inc.	$4,038.00
39359	12/09/2010	Infiniti Wireless, Inc.	$1,318.00
39360	12/09/2010	Johnson, Bradley R. MD PLLC	$150.00
39361	12/09/2010	Keefe Supply Company	$1,087.37
39362	12/09/2010	Kuttner, Barbara L	$83.00
39363	12/09/2010	Landfill Service Corporation (LSC)	$2,558.99
39364	12/09/2010	Legal Transcription Services Plus, Inc.	$943.00
39365	12/09/2010	Lehigh Safety Shoes	$1,741.84
39366	12/09/2010	Loper, Darlene	$100.00
39367	12/09/2010	Madden Preprint Media	$1,730.00
39368	12/09/2010	Manring, Donald Gene	$109.08
39369	12/09/2010	MJ Sales, Inc.	$18,928.30
39370	12/09/2010	Mundt, Lester E.	$84.00
39371	12/09/2010	Natl Assoc for Court Management	$125.00
39372	12/09/2010	Occupational Health Centers of the Southwest, P.A.	$121.50
39373	12/09/2010	Olson, C. Darryl	$100.00
39374	12/09/2010	Phoenix New Times, LLC	$150.00
39375	12/09/2010	Pro Petroleum, Inc.	$8,106.47
39376	12/09/2010	QWEST	$122.33
39377	12/09/2010	QWEST	$98.57
39378	12/09/2010	Raschke, Jay	$51.50
39379	12/09/2010	Recorded Books, LLC	$379.60
39380	12/09/2010	Rogers' Border Service	$55.00
39381	12/09/2010	Rogers, Duane & Annette	$967.25
39382	12/09/2010	Ruiz, Blanca	$75.00
39383	12/09/2010	Southwest Gas Corporation	$54.06
39384	12/09/2010	Sparkletts Water	$13.50
39385	12/09/2010	Sparkletts Water	$9.00
39386	12/09/2010	Stantec Consulting Services, Inc.	$23,223.70
39387	12/09/2010	Stantec Consulting Services, Inc.	$5,126.45
39388	12/09/2010	T-Netix Telecom	$2,410.00
39389	12/09/2010	Tech Depot an Office Depot Co	$743.26
39390	12/09/2010	UniFirst Corporation	$1,140.17
39391	12/09/2010	United Fire Equipment Co	$1,078.61
39392	12/09/2010	United Fire Equipment Co	$30.00
39393	12/09/2010	Valley Telephone Co-op, Inc.	$175.54
39394	12/09/2010	Valley Telephone Co-op, Inc.	$527.38
39395	12/09/2010	Verizon Wireless	$401.79
39396	12/09/2010	Verizon Wireless	$51.78
39397	12/09/2010	Verizon Wireless	$22.47
39398	12/09/2010	Verizon Wireless Msg Srv	$2,768.39
39399	12/09/2010	Waste Mgmt of Sierra Vista	$90.78
39400	12/09/2010	Waste Mgmt of Sierra Vista	$88.81
39401	12/09/2010	Waxie Sanitary Supply	$303.16
39402	12/09/2010	West Group	$2,422.02
39403	12/09/2010	Westlawn Chapel & Mortuary	$189.00
39404	12/09/2010	Willcox Auto Parts Inc	$16.44
39405	12/09/2010	Willcox Rock & Sand Inc	$6,773.99
39406	12/09/2010	Willcox Rock & Sand Inc	$1,148.65
39407	12/09/2010	Wood, Patel & Associates, Inc.	$16,987.71
39408	12/09/2010	Zumar Industries Inc	$3,695.63
39409	12/09/2010	AZ Department of Water Resources	$10,000.00
39410	12/09/2010	Baxter, Mark	$50.00
39411	12/09/2010	Bonham, Marsha	$15.00
39412	12/09/2010	Cochise County Finance Revolving Fund	$15.00
39413	12/09/2010	Cochise County Finance Revolving Fund	$20.00
39414	12/09/2010	Cochise County Finance Revolving Fund	$135.00
39415	12/09/2010	Guzman, Robert	$75.00
39416	12/09/2010	Holman, Kimberly	$16.41
39417	12/09/2010	Hull, Charles	$75.00
39418	12/09/2010	Lawrence, Steve	$40.80
39419	12/09/2010	Loper, Darlene	$10.00
39420	12/09/2010	Moran, Richard	$170.00
39421	12/09/2010	Sierra Vista Magistrate Court	$376.00
39422	12/09/2010	State Board of Refrigeration Examiners (SBRE)	$25.00
39423	12/09/2010	USAA Subrogee Crockett, Karen	$420.15
39424	12/09/2010	Acuna, Gloria	$309.25
39425	12/09/2010	Anderson, Steve	$163.50
39426	12/09/2010	Blakely, Robert T	$86.25
39427	12/09/2010	Elsouhag, Belvet	$24.00
39428	12/09/2010	Eskue, Beverly J	$28.00
39429	12/09/2010	Haviland, Vicki	$37.00

39430	12/09/2010	Haviland, Vicki	$24.00
39431	12/09/2010	Holliday, Deborah	$61.00
39432	12/09/2010	Lacombe, Kathleen A.	$467.25
39433	12/09/2010	Lundin, Denise I.	$93.00
39434	12/09/2010	McCleave, Keturah	$70.50
39435	12/09/2010	Romero, Tracey	$19.50
39436	12/09/2010	Searle, Richard	$57.00
39437	12/09/2010	Selleck, Andrea	$162.67
39438	12/09/2010	Steiger, Jennifer	$74.00
39439	12/09/2010	Thomas, Yolanda	$92.00
39440	12/09/2010	Wical, Jane	$72.75
39441	12/10/2010	Bisbee Observer (The)	$323.38
39442	12/10/2010	Wick Communications	$324.00
39443	12/10/2010	Mohave Risk Management	$500.00
39444	12/14/2010	Bernard, Donna G.	$354.00
39445	12/14/2010	Klimek, Deborah	$204.00
39446	12/14/2010	Pace, Regina	$366.00
39447	12/14/2010	Sierra Vista Unified School D	$30.00
39448	12/14/2010	Bank One	$253,042.31

Consent Item #: 2.

Regular Board of Supervisors Meeting **Community Development**

Date: 01/04/2011

Appointing County Engineer

Submitted By: Frances Marinez
Community Development

Department: Community Development **Division:** Highways

Presentation:	No A/V Presentation	**Recommendation:**	Approve
Document Signatures:	BOS Signature Required	**# of ORIGINALS Submitted for Signature:**	1
NAME of PRESENTER:	n/a	**TITLE of PRESENTER:**	n/a
Docket Number (If applicable):			
Mandated Function?:	Not Mandated	**Source of Mandate or Basis for Support?:**	

Information

Agenda Item Text:

Adopt Resolution 11-1 appointing Karen Riggs, P.E., as the County Engineer.

Background:

Karen Riggs was appointed by the Board to be the Acting County Engineer when Benny Young, the former Community Development Director and County Engineer, resigned about six months ago. Carlos A. De La Torre, P.E., was hired on November 1 to be the Community Development Department Director and would like to make Ms. Riggs the permanent County Engineer.

Karen Riggs will still manage projects and offer direction and advice to the Floodplain section, advise and make decisions on road-related engineering issues, provide engineering and technical advice to the Community Development Department, and will continue to consult with the H&F Deputy Director on H&F issues. Karen will report to the Community Development Director.

Department's Next Steps (if approved):

If approved, staff may request that management consider a small salary increase because of the added responsibilities.

Impact of NOT Approving/Alternatives:

Carlos A. De La Torre, P.E. will need to be appointed as the County Engineer and Karen Riggs, P.E. will assume her former position as the Floodplain Engineer.

To BOS Staff: Document Disposition/Follow-Up:

PLEASE RETURN A COPY OF THE RECORDED RESOLUTION TO H&F TO RORRI PEREZ

Attachments

Executive Summary for County Engineer

Resolution for County Engineer

COCHISE COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT
HIGHWAY AND FLOODPLAIN

MEMORANDUM

DATE: December 20, 2010

TO: Board of Supervisors

FROM: Patricia D. Morris, Deputy Director

SUBJECT: Resolution 11-_____
Appointing Karen Riggs, P.E, as the County Engineer

Recommendation: To approve the attached resolution.

Background: Karen Riggs was appointed by the Board to be the Acting County Engineer when Benny Young, the former Community Development Director and County Engineer, resigned about six months ago. Carlos A. De La Torre, P.E., was hired on November 1 to be the Community Development Department Director and would like to make Ms. Riggs the permanent County Engineer.

Karen Riggs will still manage projects and offer direction and advice to the Floodplain section, advise and make decisions on road-related engineering issues, provide engineering and technical advice to the Community Development Department, and will continue to consult with the H&F Deputy Director on H&F issues. Karen will report to the Community Development Director.

Fiscal Impacts & Funding Source: Not applicable.

Next Steps/Action Items/Follow-up: If approved, staff may request that management consider a small salary increase because of the added responsibilities.

Impact of Not Approving: Carlos A. De La Torre, P.E. will need to be appointed as the County Engineer and Karen Riggs, P.E. will assume her former position as the Floodplain Engineer.

Attachment: Resolution

RESOLUTION 11-___

APPOINTING KAREN RIGGS, P.E., AS THE COCHISE COUNTY ENGINEER.

WHEREAS, pursuant to A.R.S. §11-561 the Cochise County Board of Supervisors may appoint a County Engineer; and

WHEREAS, Cochise County requires a signatory who is a licensed Professional Engineer; and

WHEREAS, Karen Riggs, P.E., is a licensed Professional Engineer and has proven that she has the knowledge and skills to perform that function; and

WHEREAS, Karen Riggs has been Acting County Engineer since July 27, 2010.

WHEREAS, it is requested that Karen Riggs, P.E., be appointed as County Engineer and be given the authority to act on behalf of the Cochise County Community Development Department in matters directed to the County Engineer requiring the judgment or signature of a Professional Engineer.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors does hereby appoint Karen Riggs, P.E., as the County Engineer.

ADOPTED by the Cochise County Board of Supervisors this _____ day of _____, 2011.

_____
Pat Call, Chairman
Board of Supervisors

ATTEST:

_____
Katie Howard
Clerk of the Board

APPROVED AS TO FORM:

_____
David Fifer
Deputy County Attorney

Consent Item #: 3.

Regular Board of Supervisors Meeting **Court Administration**

Date: 01/04/2011

Fiscal Year 2010-2011 Judicial Funding Agreements

Submitted By: Faye Coakley
Court Administration

Department: Court Administration

Presentation:	No A/V Presentation	**Recommendation:**	Approve
Document Signatures:	BOS Signature NOT Required	**# of ORIGINALS Submitted for Signature:**	0
NAME of PRESENTER:	N/A	**TITLE of PRESENTER:**	N/A
Mandated Function?:	Federal or State Mandate	**Source of Mandate or Basis for Support?:**	

REMINDER:

Information

Agenda Item Text:

Approve the Fiscal Year 2010-2011 Judicial Funding Agreements in the amount of $3,194,098.31, as set forth on the attached exhibit.

Background:

The Board of Supervisors has ministerial authority to approval all funding agreements entered into by the judicial branch as provided in ARS 11-251(1), "Supervise the official conduct of all county officers and officers of all districts and other subdivisions of the county charged with assessing, collecting, safekeeping, managing or disbursing the public revenues…"; ARS 11-251(10), "Examine and exhibit the accounts of all officers having the care, management, collection or disbursement of money belonging to the county or appropriated by law or otherwise for the use and benefit of the county."; ARS 11-251(11), "Examine, settle and allow all accounts legally chargeable against the county, order warrants to be drawn on the county treasurer for that purpose and provide for issuing warrants."; and 11-952, "If authorized by their legislative or other governing bodies, two or more public agencies or public procurement units by direct contract of agreement may contract for services…". The approval by the Board of Supervisors authorizes the County Treasurer to collect and the Finance Department to disburse funds in accordance with each funding agreement. None of the enclosed funding agreements allow funds to be used to pay overhead charges.

Department's Next Steps (if approved):

N/A

Impact of NOT Approving/Alternatives:

N/A

To BOS Staff: Document Disposition/Follow-Up:

Documents in interoffice mail

Consent Item #: 4.

Regular Board of Supervisors Meeting **Finance**

Date: 01/04/2011

Demands & Operating Transfers

Submitted By: Arlethe Rios
Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Recommendation:

Document Signatures:

# of ORIGINALS Submitted for Signature:

NAME of PRESENTER: n/a

TITLE of PRESENTER: n/a

Mandated Function?:

Source of Mandate or Basis for Support?:

Information

Agenda Item Text:

Approve Demands and budget amendments for operating transfers.

Background:

Auditor-General's requirement for Board of Supervisors to approve.

Department's Next Steps (if approved):

Return to Finance after BOS approval.

Impact of NOT Approving/Alternatives:

Board of Supervisors will not be in compliance with State law.

To BOS Staff: Document Disposition/Follow-Up:

Return to Finance after BOS approval.

Consent Item #: 5.

Regular Board of Supervisors Meeting **Fleet**

Date: 01/04/2011

Invitation for Bid - Fleet Vehicles

Submitted By: Dave Seward
Procurement

Department: Procurement

Presentation:	No A/V Presentation	**Recommendation:**	Approve
Document Signatures:	BOS Signature NOT Required	**# of ORIGINALS Submitted for Signature:**	0
NAME of PRESENTER:	N/A	**TITLE of PRESENTER:**	N/A
Mandated Function?:	Local Mandate or Policy	**Source of Mandate or Basis for Support?:**	
Docket Number (If applicable):			
Attorney Approving Item:	Dave Fifer	**Date Attorney Approved:**	**12/23/2010**

Information

Agenda Item Text:

Approve the award of Invitation for Bids (IFB) No. 11-24-FMD-04 to Sand Chevrolet for the purchase of three vehicles for the Fleet Management Department in the amount of $71,186.12 plus applicable sales tax.

Background:

Background: IFB No. 11-24-FMD-04 was released on November 15, 2010. The bid was advertised in the Sierra Vista Herald November 17 – 24, 2010 and posted on the County website. Bid notices were mailed to 23 vendors. Eight bids were received prior to the bid closing date and time of December 18, 2010 at 4:00 p.m. A bid tabulation is attached which references Sand Chevrolet as the lowest responsive and responsible bidder meeting all the requirements of the bid.

Department's Next Steps (if approved):

Issue purchase order. Inspect vehicles upon delivery.

Impact of NOT Approving/Alternatives:

The impact of not approving would result in having to retain current vehicles that have reached their life cycle resulting in a significant increase in maintenance and repair costs.

To BOS Staff: Document Disposition/Follow-Up:

No contract signature required. Please note: This bid was released prior to the adoption of the local vendor preference policy, and as such, the local vendor preference policy which goes into effect on January 1, 2011 is not applicable to this bid.

Fiscal Impact

Fiscal Year:	2011
One-time Fixed Costs? ($$$):	71,186.12

Ongoing Costs? ($$$):

County Match Required? ($$$):

A-87 Overhead Amt? (Co. Cost Allocation $$$):

Source of Funding?:

Fiscal Impact & Funding Sources (if known):

The Fleet Management Department has budgeted sufficiently for this purchase in the FY 2010-11 budget.

Attachments

Bid Tab

PRELIMINARY BID TABULATION

COCHISE COUNTY, PROCUREMENT DEPT. BID TABULATION ITEM: Fleet Vehicles IFB NO: 11-24-FMD-04 DUE DATE: 12/16/2010 BUYER: Terry Hudson	Sands Motor Company, Glandale, AZ	Lawley Motors, Sierra Vista, AZ	Courtesy Chevrolet, Phoenix, AZ	Whiteside Chevrolet, St. Clairsville, OH	Midway Chevrolet, Phoenix, AZ	Chapman Chevrolet, Tempe, AZ
Bid Item 1. Four Wheel Drive						
Crew Cab; Quantity 1 ea.	$25,962.26	$26,374.26	$26,359.26	$28,747.00	$26,507.26	$27,535.82
Bid Item 2. Two Wheel Drive						
Ext. Cab; Quanrity 1 ea.	$19,833.46	$20,828.46	$20,303.46	$21,900.00	$19,878.46	$21,250.00
Bid Item 3. Tahoe PPV						
Quantity 1 ea.	$25,390.40	$25,757.40	$25,651.40	$27,253.00	$26,140.40	$26,797.27

PRELIMINARY BID TABULATION

COCHISE COUNTY, PROCUREMENT DEPT. BID TABULATION ITEM: Fleet Vehicles IFB NO: 11-24-FMD-04 DUE DATE: 12-16-2010 BUYER: Terry Hudson	Kempton Chevrolet, Willcox, AZ	Yates Buick GMC, Goodyear, AZ				
Bid Item 1: Four Wheel Drive						
Crew Cab, Quantity 1 ea.	$26,999.00	$28,363.75				
Bid Item 2: Two Wheel Drive						
Extended Cab, Quantity 1 ea.	$20,900.00	$21,878.26				
Bid Item 3: Tahoe PPV						
Quantity 1 each	$26,500.00	No Bid				

Consent Item #: 6.

Regular Board of Supervisors Meeting **Health**

Date: 01/04/2011

Environmental Health Delegation Agreement Amendment

Submitted By: Jennifer Steiger
Health

Department: Health

Presentation:	No A/V Presentation	**Recommendation:**	Approve
Document Signatures:	BOS Signature Required	**# of ORIGINALS Submitted for Signature:**	2
NAME of PRESENTER:	none	**TITLE of PRESENTER:**	none
Mandated Function?:	Federal or State Mandate	**Source of Mandate or Basis for Support?:**	Arizona Department of Health Services

REMINDER:

Information

Agenda Item Text:

Approve the Amendment to the Cochise County Delegation Agreement between the Arizona Department of Health Services and the Cochise County Health Department, delegating the added responsibility of conducting food service inspections at the Cochise County jails and detention centers to the Cochise County Health Department, and extending the agreement for the period from 7/1/10 through 6/30/17.

Background:

The Environmental Health Division of the Health Department is the entity which carries out the health and environmental inspections for the State in Cochise County under the authority delegated to Cochise County by the ADHS. Selected delegated functions from the State to Cochise County fall under areas of Food Service, Public Swimming Pools, Public Schools, Public Accommodations and RV Parks. Also delegated is the authority to collect fees that are established by the BOS.

Department's Next Steps (if approved):

Your approvals are respectfully requested.

Impact of NOT Approving/Alternatives:

Not approving this Delegation Agreement will leave the ADHS without a local agent in Cochise County to whom it can delegate its duties and authorities under ARS 36-182. The State requires the County's assistance in this regard. Additionally, without this delegation agreement sanitary inspections of restaurants, public accommodations, public swimming pools and public schools would not take place in Cochise County.

To BOS Staff: Document Disposition/Follow-Up:

BOS signature is required. Two originals sent to the Clerk of the Board 12/17/10. Please return both originals for processing and signatures through ADHS. A fully executed original will be sent to the Clerk of the Board for filing purposes.

Fiscal Impact

Fiscal Year:	2010-2011
One-time Fixed Costs? ($$$):	0
Ongoing Costs? ($$$):	0
County Match Required? ($$$):	0
A-87 Overhead Amt? (Co. Cost Allocation $$$):	0
Source of Funding?:	Inspection Fees

Fiscal Impact & Funding Sources (if known):

The additional mandated inspections would be funded through fees charged to the company that has the contract for food service at the jail. No fiscal impact to the County.

Attachments

Grant Approval Form_Amendment

EnvHlt DelAgrmt Amend 12-10

COCHISE COUNTY GRANT APPROVAL FORM

Form Initiator: Jennifer Steiger

Department/Division: Health/Admin.

Date Prepared: 12/22/10

Telephone: 520-432-9402

Grantor: ADHS

Grant Title: Amendment to Delegation Agreement

Grant Term From: 6/30/10 To: 6/30/17

Fund No/Dept. No: 100-5000-5300 (Environmental Health

Note: Fund No. will be assigned by the Finance Department if new.

New Grant ☐ Yes ☒ No Amendment No. 1 Increase $ n/a Decrease $ n/a

Briefly describe purpose of grant:

To provide an extension of the existing Cochise County Environmental Health Delegation Agreement, and to delegate additional responsibilities to Cochise County for conducting food service inspections at the Cochise County Jail and Detention Centers.

If amendment, provide reason:

To provide an extension of the existing Cochise County Environmental Health Delegation Agreement, and to delegate additional responsibilities to Cochise County for conducting food service inspections at the Cochise County Jail and Detention Centers.

If this is a mandated service, cite source. If not mandated, cite indications of local customer support for this service:

These services are mandated by the Arizona Department of Health Services.

Funding Sources	Federal Funds 332.100	State Funds 336.100	County Funds 391.000	Other	Total
Current Fiscal Year					
Remaining Years					
Total Revenue					

Is County match required? ☐ Yes ☒ No If yes, dollar amount $

Has this amount been budgeted? ☒ Yes ☐ No Identify Funding Source: ADHS

Federal Catalog of Federal Domestic Assistance (CFDA) No:

Method of collecting grant funds: Lump sum payment ☐ Quarterly payments ☐ Draw ☐ Reimbursement ☐

Is revertment of unexpended funds required at end of grant period? ☐ Yes ☐ No

a) Total A-87 cost allocation n/a

b) Amount of overhead allowed by grant n/a County subsidy (a-b) n/a

Does Grantor accept indirect costs as an allowable expenditure? ☐ Yes ☐ No

If yes, dollar amount $ OR percentage allowed %

Number of new positions that will be funded from grant: n/a Number of existing positions funded from grant: n/a

Executive Summary Form

Agenda Number: HLT-- (ADHS Delegation Agreement, 12/2/10)

Recommendation:

This is to request your approval of the Cochise County Health Department's amended Delegation Agreement with the Arizona Department of Health Services (ADHS). This amendment delegates to the Cochise County Health Department the responsibility of conducting food service inspections at the County Jail and Detention Centers and extends the agreement to June 30, 2017. The previous delegation agreement expired June 30, 2010.

Background (Brief):

The Environmental Health Division of the Health Department is the entity which carries out the health and environmental inspections for the State in Cochise County under the authority delegated to Cochise County by the ADHS. Selected delegated functions from the State to Cochise County fall under areas of Food Service, Public Swimming Pools, Public Schools, Public Accommodations and RV Parks. Also delegated is the authority to collect fees that are established by the BOS.

Fiscal Impact & Funding Sources:

The additional mandated inspections would be funded through fees charged to the company that has the contract for food service at the jail. No fiscal impact to the County.

Next Steps/Action Items/Follow-up:

Your approvals are respectfully requested.

Impact of Not Approving:

Not approving this Delegation Agreement will leave the ADHS without a local agent in Cochise County to whom it can delegate its duties and authorities under ARS 36-182. The State requires the County's assistance in this regard. Additionally, without this delegation agreement sanitary inspections of restaurants, public accommodations, public swimming pools and public schools would not take place in Cochise County.

Arizona Department of Health Services

Division of Operations
Office of Procurement
1740 West Adams Street, Room 303
Phoenix, Arizona 85007-2670
(602) 542-1040
(602) 542-1741 Fax

JANICE K. BREWER, GOVERNOR
WILL HUMBLE, DIRECTOR

November 17, 2010

Ms. Vaira Harik, County Health Director
Cochise County Health Department
1415 West Melody Lane, Building A
Bisbee, Arizona 85603

RE: Amendment to Delegation Agreement

Dear Ms. Harik,

Enclosed please find two (2) copies of an Amendment to the Delegation Agreement between the Arizona Department of Health Services (ADHS) and Cochise County Health Department. Please review and secure signatures on page six (6) as noted.

Upon signature, please return both copies to my attention for execution by ADHS.

Please call me at (602) 542-0442 or email at Christine.Ruth@azhds.gov if you have any questions.

Sincerely,

Christine Ruth

Christine Ruth
Acting Chief Procurement Officer

AMENDMENT

To

DELEGATION AGREEMENT

Between

ARIZONA DEPARTMENT OF HEALTH SERVICES

and

COCHISE COUNTY HEALTH DEPARTMENT

The Arizona Department of Health Services **("ADHS")** is authorized by § 36-136(D) to delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the Director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district.

The Cochise County Health Department **("CHD")** is a local health department as set forth in A.R.S. § 36-136(D) and may carry out delegated functions, powers, or duties.

A.R.S. § 11-201(A)(3) authorizes the County Board of Supervisors to enter into contracts as necessary to assist Cochise County in exercising its powers, and A.R.S. § 41-1081 establishes standards of delegation.

The Delegation Agreement **("Agreement")** may be amended by mutual approval of both parties by executing and filing a written amendment signed by both parties containing the desired modifications.

Therefore the Director of ADHS delegates to the CHD, and the CHD agrees to accept the amended delegation of authority to perform those functions, powers, and duties described in Appendix A in accordance with the terms and conditions of this Amendment. Functions and duties in food and general sanitation control to be retained by ADHS are found in Appendix B.

A. RECORDS AND INSPECTIONS:

1. CHD agrees to prepare and maintain appropriate records relating to the administration of activities specified in this Amendment, and the Agreement thus amended.

2. ADHS representatives may accompany employees of the CHD on inspections and review all records relating to the administration of the activities set forth in this Amendment, and the Agreement thus amended. Where practicable, accompaniment by ADHS representatives on such inspections will be conducted with prior notice provided by ADHS and CHD. CHD representatives may accompany ADHS inspectors on ADHS inspections for the purposes of training, information sharing or to coordinate CHD and ADHS activities. ADHS representatives shall contact appropriate CHD staff to make necessary arrangements prior to inspections.

B. ENFORCEMENT ACTIONS:

1. CHD shall comply with all applicable rules of the State, and with all applicable county ordinances, rules and regulations adopted pursuant to A.R.S. § 36-136(H). CHD may enforce local regulations, which are consistent with and at least as restrictive as those of the State, in lieu of the State rules.

2. CHD shall be responsible for appropriate enforcement actions, including but not limited to, enforcement pursuant to the procedures set forth in A.R.S. § 36-601(B) and (C), for those functions, powers, and duties which are delegated in this Amendment, and the Agreement thus amended.

3. CHD shall respond to imminent health hazards which fall under the CHD's delegated functions, powers and duties. ADHS retains the authority to also respond to such imminent health hazards.

4. Unless an imminent health hazard exists, no enforcement actions on delegated activities will be initiated by the ADHS until such time as the CHD has received notice of said violations from ADHS and has had five (5) working days after receipt of notification to initiate appropriate enforcement action.

C. FEES AND FINES:

The CHD may set and collect fees and fines as authorized by A.R.S. § 36-187(C).

D. QUALIFICATIONS OF PERSONNEL:

CHD personnel performing delegated duties shall be qualified in accordance with A.R.S. § 36-136.01 and the A.A.C. Title 9, Chapter 16, Article 4, which govern sanitarians.

E. STANDARDS OF PERFORMANCE

1. CHD shall meet standards as outlined in statute and rules in Appendix A, Section (C), Delegated Responsibilities.
2. Reports are due to the ADHS Food Safety & Environmental Services Section annually in the format in Appendix C.

F. TERMINATION:

1. This Agreement may be terminated in whole or in part by either party, effective ninety (90) days after providing written notice of termination by certified mail to the other party.
2. CHD, prior to the termination of all or part of this Agreement, shall forward to the ADHS Director all pending applications received by the CHD for those functions, powers, and duties being terminated, a summary report of those functions, powers, and duties, and provide notification to all persons with pending applications and to all regulated facilities affected by such termination.
3. The provisions of A.R.S. § 38-511 et. seq. are incorporated herein by reference.

G. AMENDMENTS:

This Agreement may be amended by mutual approval of both parties by executing and filing a written amendment signed by both parties containing the desired modifications.

H. DISPUTES:

1. In the event of a dispute concerning a question of fact arising under this Amendment, and the Agreement thus amended, which cannot be resolved by the ADHS Project Director and CHD, the aggrieved or dissatisfied parties agree to use arbitration as required by A.R.S. § 12-133. Otherwise, within thirty (30) days after a written request for a hearing is filed, the ADHS Director shall hold a hearing presided over by a hearing officer who may be the ADHS Director or any qualified person or panel whom the ADHS Director may appoint to adjudicate the dispute. The hearing officer shall rule on all motions, hold conferences for the purpose of clarifying procedural steps or legal or factual issues, conduct the hearing, grant continuances and otherwise rule on procedural matters and regulate the course and manner of the hearing. All hearings shall be recorded. All testimony shall be under oath or affirmation. Within twenty (20) days after the conclusion of the hearing, the hearing officer shall prepare and circulate written findings of fact and conclusions of law and recommended decision(s). Each of the parties shall have five (5) days in which to respond. The hearing officer may revise or supplement his original findings, conclusions and recommended decision(s) in light of responses made or may submit his findings, conclusions and recommended decision(s) and copy of all responses to the ADHS Director along with a legible or audible copy of the record and all documentary evidence. The ADHS Director shall issue his findings of fact, conclusions of law and decision(s) in writing and furnish a copy to concerned parties. Pending final decision of a dispute, CHD shall proceed diligently with the performance of the Agreement and in accordance with the ADHS Director's decision(s).
2. Paragraph one (1), shall not preclude the ADHS Director from considering questions of law in connection with decisions made pursuant to paragraph one (1); likewise this Amendment, and the Agreement thus amended, shall not preclude an appeal of the ADHS Director's final decision on a question of law.

I. TERM OF AGREEMENT:

Pursuant to A.R.S. § 41-1081(E), this Amendment shall be effective thirty (30) days after written notice of ADHS' final decision (following the public comment period and hearing, if any) or the date the Amendment has been signed by both parties, whichever comes later. The termination date of this Amendment, and the Agreement thus amended is June 30, 2017. In the event a new Agreement is not executed by that date, the Agreement may be extended by mutual agreement by the parties by filing an amendment in accordance with A.R.S. § 41-1081.

ARIZONA DEPARTMENT OF HEALTH SERVICES

DIRECTOR DATE

COUNTY HEALTH DEPARTMENT

DIRECTOR DATE

COUNTY BOARD OF SUPERVISORS

CHAIRMAN DATE

ATTEST

CLERK OF THE BOARD DATE

APPENDIX A

FOOD AND GENERAL SANITATION CONTROL

A. PRIMARY CONTACT PERSONS:

1. The name and address of the primary contact person for the Cochise County Health Department is as follows:

Name:	Vaira Harik
Title:	County Health Director
	Cochise County Health Department
Address:	1415 W Melody Lane, Bldg. A Bisbee, AZ 85603
Telephone:	520.432.9472

2. The name and address of the primary contact person for the Arizona Department of Health Services is as follows:

Name:	Diane Eckles, Chief
Division:	Office of Environmental Health
	Arizona Department of Health Services
Address:	150 N 18th Ave, Ste 140
	Phoenix, Arizona 85007
Telephone:	602.364.3142

B. REPORTING:

The CHD shall submit to the Manager, Food Safety & Environmental Services Section, ADHS, 150 N 18th Ave, Suite 140, Phoenix, Arizona, 85007, a fiscal year ending June 30th annual report by September 1st on forms provided by ADHS, Appendix C, and copies of any legal action initiated by the County within thirty (30) days of initiation.

C. DELEGATED RESPONSIBILITIES:

Cochise County Health Department agrees to perform the following functions and duties:

Delegated Functions and Duties

Applicable Rules and Statutes		Personnel Qualifications	Standards of Performance
Bathing Places	A.R.S. §§ 36-132(A)(12), 36-136(A)(6), and 36-136(D). A.A.C. Title 9, Chapter 8, Article 8.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.
Bottled Water manufacturers	A.R.S. §§ 36-132(A)(13), 36-136(A)(6), and 36-136(D). A.A.C. Title 9, Chapter 8, Article 2.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.
Campgrounds sanitation	A.R.S. §§ 36-136(A)(6) and 36-136(D). A.A.C. Title 9, Chapter 8, Article 6.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.
Childrens Camps	A.R.S. §§ 36-136(A)(6), 36-136(D), and 8-551 through 8-568. A.A.C. Title 9, Chapter 8, Article 4.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.
Food Establishments. State prisons, Behavioral Health Services and Department of Economic Security residential facility food establishments, are excluded.	A.R.S. §§ 36-136(A)(6) and 36-136(D). A.A.C. Title 9, Chapter 8, Article 1.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.
Hotel and Motel sanitation	A.R.S. §§ 36-136(A)(6) and 36-136(D). A.A.C. Title 9, Chapter 8, Article 13.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.
Public Nuisance Complaint responses.	A.R.S. §§ 36-136 and 36-601.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.
Pure Food Control investigations.	A.R.S. §§ 36-132(A)(14), 36-136(A)(6), and 36-136(D), and 36-901 through 36-916.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.

Applicable Rules and Statutes		Personnel Qualifications	Standards of Performance
Public Toilet Facilities and Special Events	A.R.S. §§ 36-136(A)(6) and 36-136(D). A.A.C. Title 9, Chapter 8, Article 3.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.
Public School sanitation	A.R.S. §§ 36-136(A)(6) and 36-136(D). A.A.C. Title 9, Chapter 8, Article 7.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.
Trailer Coach Park sanitation	A.R.S. §§ 36-136(A)(6) and 36-136(D). A.A.C. Title 9, Chapter 8, Article 5.	Registered Sanitarian, A.A.C. Title 9, Chapter 16, Article 4.	A.A.C. Title 9, Chapter 16, Article 4.

Pure Food Enforcement by County: Required Notice to ADHS:

In conjunction with the inspection and enforcement powers delegated, the CHD shall also administer and enforce those provisions of A.R.S. 36-901 through 36-916, excluding 36-915, which prohibit the manufacture, sale, holdings or delivery of adulterated and misbranded foods. Where adulterated or misbranded food is manufactured, sold, held, or delivered within Cochise County, and no portion of such manufacture sale, holding, or delivery occurs within any other county of the State, the CHD may take enforcement action without first notifying ADHS. However, if any portion of the manufacture, sale, delivery, holding, or offering for sale of adulterated or misbranded food occurs within any other county of the State, no enforcement action shall be initiated by the CHD until after such time as ADHS has received notice of said violation and has had an opportunity five (5) working days after notification to initiate such enforcement action at the ADHS level as ADHS may indicate it intends to commence. The CHD shall, in all emergency cases, give reasonably adequate notice to ADHS of the nature and extent of any violation of State statute or rule relating to adulterated or misbranded foods, and shall provide such additional information as ADHS may require in connection therewith.

APPENDIX B

ADHS RETAINED FOOD AND GENERAL SANITATION CONTROL

ADHS will be responsible for sanitation inspections of facilities not delegated to the CHD.

Appendix C
Food and General Sanitation Annual Report Form

Jurisdiction:_____ Fiscal Year:

Food Program Activity Categories:

	Complex	Moderate	Limited	Totals
Current Number of Food Establishments				
Number of Routine Inspections				
Number of Reinspections				
Number of Pre-Operational Inspections Performed				
Number of Food borne Illness (FBI) Complaints Evaluated/Investigated				
Number of Non-FBI Complaints Evaluated/Investigated				
Number of Compliance Proceedings (Conferences, Hearings, Court)				
Number of Food Items Detained/Embargoed				
Number of Temporary Food Establishment Inspections Performed				

Food Program Educational Services:

	Totals
Number of Presentations (Group Events)	
Number of Participants/Audience (Group Events)	
Number of Consultations/Counseling Provided	
Number of Media Contacts	

Sanitation Inspections and Other Programs:

	Number of Facilities	Number of Inspections	Number of Complaint Investigations	Number of Enforcement Actions
Public & Semipublic Bathing Places				
Trailer Coach Parks				
Public School Grounds				
Camp Grounds				
Childrens Camps				
Public Accommodations				
Bottled Water				

LETTER OF DETERMINATION

INTERGOVERNMENTAL AMENDMENT NO._____
The Office of the County Attorney has determined that the Intergovernmental Amendment made between the:

ARIZONA DEPARTMENT OF HEALTH SERVICES

AND THE

COCHISE COUNTY HEALTH DEPARTMENT

is in proper form and is within the powers and authority granted under the laws of Arizona to the County Board of Supervisors (ref. A.R.S. 11-201).

EDWARD G. RHEINHEIMER
TYPED NAME OF COUNTY ATTORNEY

BY

SIGNATURE OF COUNTY ATTORNEY/DESIGNEE

TERRY BANNON, CIVIL DEPUTY
TYPED TITLE OF SIGNATORY

12-13-10
DATE

Public Hearings Item #: 7.

Regular Board of Supervisors Meeting **Community Development**

Date: 01/04/2011

Docket SU-09-08A - Appeal of Commission Denial of a Special Use Modification

Submitted By: Keith Dennis
Community Development

Department: Community Development **Division:** Planning

Presentation:	PowerPoint	**Recommendation:**	Approve
Document Signatures:	BOS Signature NOT Required	**# of ORIGINALS Submitted for Signature:**	0
NAME of PRESENTER:	Keith Dennis	**TITLE of PRESENTER:**	Senior Planner
Mandated Function?:	Local Mandate or Policy	**Source of Mandate or Basis for Support?:**	Zoning Regulations, Section 1716.04
Docket Number (If applicable):	SU-09-08A		
Approving Attorney:	Pending CAO Approval	**Date Attorney Approved:**	

Information

Agenda Item Text:

Approve Docket SU-09-08A (Elder Care for Life), an appeal of a November 10, 2010 Planning Commission decision on a Special Use Modification request.

Background:

Docket SU-09-08A (Elder Care for Life): The Applicant, Elder Care for Life, currently operates a Residential Care Institution on the property (Windmill Ranch), as allowed by Special Use pursuant to Section 707.06 of the Zoning Regulations. The Planning and Zoning Commission authorized the Special Use in March of 2009, with approval conditions requiring the Applicant to direct associated traffic to Calle de Naranja, a County-maintained road West of the property.

In November of 2010, the Applicant sought a Special Use Modification, to have these approval conditions removed from the Special Use and allow traffic to access Calle de Mango, a County-maintained road East of the property. The Commission denied the request, and the Applicant now appeals the ruling to the Board of Supervisors.

The subject parcel (Parcel # 104-02-006F) is located at 5605 E Labrador Lane in Hereford, AZ. The Applicant is Nathan Yarborough of Elder Care for Life.

Department's Next Steps (if approved):

If approved, the Board would overturn the Commission's denial of the Special Use Modification Request, and grant the modifications requested by the Applicant. Specicifally, the Applicant would no longer be bound by the SU-09-08 approval conditions, requiring Windmill Ranch to direct traffic along the Calle de la Naranja route to the site.

Impact of NOT Approving/Alternatives:

If not approved, Commission's ruling would be upheld, and the Applicant would continue to be bound by the access-related conditions explained in the staff memorandum.

To BOS Staff: Document Disposition/Follow-Up:

There is no ordinance or resolution to be signed, nor any next steps for the BOS staff, for this Appeal. The Planning Department will process a new Acceptance of Conditions form with the Applicant if approved; there would be no change if the Appeal is not granted by the Board.

Attachments

Staff Memo for BOS

PowerPoint

Attachment A - PZC Memo SU-09-08

Attachment B - Location Map

Attachments C and D - Survey and Trans Planner Comments

Attachments E through H - Citizen and Agency Comments

Attachment I - Planning Commission Minutes

Attachments J and K - Appeal Form and Road Agreement

COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
Fax 432-9278

Carlos De La Torre, P.E., Director

MEMORANDUM

TO: Cochise County Board of Supervisors

FROM: Keith Dennis, Senior Planner

For: James E. Vlahovich, Planning Director

SUBJECT: Docket SU-09-08A (Elder Care for Life)

DATE: December 21, 2010, for the January 4, 2011 Meeting

APPEAL OF A SPECIAL USE MODIFICATION BY THE PLANNING COMMISSION

Docket SU-09-08A (Elder Care for Life): The Applicant, Elder Care for Life, currently operates a Residential Care Institution on the property (Windmill Ranch), as allowed by Special Use pursuant to Section 707.06 of the Zoning Regulations. The Planning and Zoning Commission authorized the Special Use in March of 2009, with approval conditions requiring the Applicant to direct associated traffic to Calle de Naranja, a County-maintained road West of the property.

In November of 2010, the Applicant sought a Special Use Modification, to have these approval conditions removed from the Special Use and allow traffic to access Calle de Mango, a County-maintained road East of the property. The Commission denied the request, and the Applicant now appeals the ruling to the Board of Supervisors.

The subject parcel (Parcel # 104-02-006F) is located at 5605 E Labrador Lane in Hereford, AZ. The Applicant is Nathan Yarborough of Elder Care for Life.

II. PLANNING AND ZONING COMMISSION

On November 10, 2010, the Planning and Zoning Commission voted unanimously (7 – 0) to deny the Modification request. The Commission's ruling was based in part on numerous statements of opposition to the request from some 36 neighbors, 27 of which own property within the 1,000 notification buffer area. Commissioners also opposed the request due to a sentiment that, having agreed to the conditions of approval in 2009, the Applicant should be made to follow the approved and agreed-to conditions.

III. BACKGROUND AND NATURE OF APPEAL

Labrador Lane is a private road, approximately 1,300 feet in length. It is flanked by two County-maintained roads: Calle de la Mango to the East (paved) and Calle de la Naranja to the West (dirt). The subject property is slightly closer to Calle de la Naranja. Elder Care for Life staff

maintain Labrador Lane as required under a Private Maintenance Agreement to which the Applicant agreed in 2009.

Aerial photo of the project site. The roadway lines represent the extent of County-maintenance.

During the Citizen Review and subsequent public process leading up to the March 11, 2009 Commission hearing, staff received statements from neighbors concerned about traffic along Labrador Lane. In an effort to alleviate neighbor concerns, staff offered traffic-related approval conditions to the Commission. Specifically, Condition #2 required the Applicant to:

A. Require all traffic accessing the site to use the Calle de Naranja route;

B. Post a sign at the property line along Labrador Lane, instructing visitors to use the Calle de Naranja route; and

C. Inform employees, delivery drivers, and residents' family members in writing to access the site through the Calle de Naranja route.

The Applicant sought a Special Use Modification from the Planning Commission, to have these conditions removed from the Special Use. They claim that Calle de la Naranja is subject to monsoon washouts; that Calle de la Mango is the more "intuitive" route to the facility; and that Calle de la Mango provides a more accessible route to Windmill Ranch. The Modification request included written statements of support from the fire department, ambulance and mortuary services. When the Commission denied the request, the Applicants exercised their right of appeal to the Board of Supervisors. The Applicants ask that the Board overturn the Commissions' denial of the Special Use Modification. The reasoning behind the request is attached as Attachment J.

IV. WINDMILL RANCH HISTORY

In 2007, the Applicant obtained a permit for a Residential Care Home with up to six residents ("Windmill Ranch"). Residential Care Homes are a permitted principal use in a TR District, and may be established without a public process or hearing. The facility opened in January of 2008.

After the home opened, neighbors East of the project became concerned about an increase in traffic associated with Windmill Ranch. In response to this concern, the Applicant agreed to clear a path along Westbound Labrador Lane to connect with Calle de la Naranja. The idea was to reduce traffic by allowing multiple routes to the home. Many in the neighborhood, including the Applicant and neighbors concerned about traffic, agree that the plan did not work; much of the Windmill Ranch-related traffic continued to use the paved Calle de la Mango, and residential traffic from Calle de la Naranja began to traverse Labrador Lane en route to Calle de la Mango. The result was more traffic, some of which was residential through traffic.

In March of 2009, the Planning and Zoning Commission granted a Special Use, to upgrade the facility to a Residential Care Institution, defined as having seven or more residents. At that time the Commission imposed the condition of approval, recommended by staff and noted in Section III of this Memo, that was the subject of the modification request.

In May of 2010, staff issued a Certificate of Occupancy for Windmill Ranch, as the Applicant had met all applicable requirements. Per the approved Special Use, there are now eight people living on the property. A gate across Labrador Lane at the Applicant's Eastern property line was removed around this time.

In September of 2010, the Applicant began the Special Use Modification process, conducting a new Citizen Review as required. The Citizen Review effort, as well as the County's notice to property owners within 1,000 feet of the property, yielded a statement of support from a neighbor, and opposition from 36 other neighbors, 27 of whom reside or own property within the 1,000 foot notification buffer area. Elder Care for Life also provided staff with written statements of support from the local fire district, an ambulance service provider and a mortuary service.

Traffic-related concerns about Windmill Ranch have been the subject of controversy and tension in the neighborhood since the Residential Care Home was first established. Some neighbors were unaware that the business had moved into the area. As the public comments attached to this Memo indicate, some felt that Windmill Ranch should never have opened on Labrador Lane, due to a desire to preserve the character of what is described as a "rural" or "residential" neighborhood as well as deed restrictions limiting commercial activity in the area.

Evidence of the on-going dispute can be physically observed along Labrador Lane. In the past year, neighbors have installed two gates along the Eastern portion of the road, placed "no trespassing" signs on the gates, dug trenches meant to impede traffic, and planted cactus in strategic points along the easement. There have been heated altercations between neighbors on Labrador Lane over the traffic issue, and law enforcement has been involved in these disputes more than once.

More recently, the neighbor at the Northwest corner of Calle de la Mango and Labrador Lane commissioned a survey of the property lines and easement boundaries in the area. The survey determined that the road travelway of Labrador Lane did not align with the recorded access easement. The road travelway in fact lay to the North of the easement boundary; the fence and possibly the well belonging to the Southern neighbor have been determined to encroach into the easement. The Northern neighbor recently built a fence reflecting the true property/easement boundary, which has narrowed the travelway along Labrador Lane. Traffic is slowed by the gates, but the road can be passed.

As mentioned in Section III of this Memo, the Applicant has signed a Private Maintenance Agreement with the County, for the length of Labrador Lane (the condition did not specify Eastbound or Westbound). This agreement, attached to this Memo as Attachment K, requires that the Applicant maintain the length of this road in a "safe, passable condition." The Applicants have regularly mown and attempted to remove the ditches and berms from the roadway. These trenches would often reappear after being graded over; staff observed four such trenches along Labrador Lane East of Windmill Ranch during the site visit prior to the November Commission hearing. During that hearing, a neighbor mentioned that the majority of maintenance activities seem to take place East of the property, with not as much attention paid to the route connecting to Calle de la Naranja.

In their appeal form (Attachment J), the Applicants state that their ability to comply with the Private Maintenance Agreement requirements are hampered by the narrowing of Labrador Lane East of the property. Specifically, the appeal form refers to a requirement that the full 20-foot width of the easement be maintained. In fact, the legal access requirement in the agreement refers to the width of the dedicated easement, not to the physical width of the travelway. The legal access requirement is for a 20-foot wide access easement. The actual road travelway could be wider than 20 feet, or it could be more narrow. The Private Maintenance Agreement requires an Applicant to maintain the travelway in such a way as to keep it in "good driving condition." It appears the Applicant has done so, both West to Calle de la Naranja and East to Calle de la Mango. The narrowing of the roadway due to the new fence construction does not mean that the road is impassable.

V. Summary and Conclusion

It should be noted that the statements of support and opposition from neighbors and emergency services providers noted in this Memo were received as part of the Special Use Modification process leading up to the November 10, 2010 Commission hearing.

Factors in Favor of Granting the Appeal

1. Emergency Services providers including ambulance, fire and mortuary services expressed support in writing for the Special Use Modification request.

2. One neighbor, along Calle de la Naranja, expressed support for the Modification request.

Factor Against Granting the Appeal

1. The Department received statements of opposition to the Modification request from 36 neighbors, 27 of which are within the 1,000 foot notification buffer.

2. At their regular meeting of November 10, 2010, the Planning and Zoning Commission voted unanimously (7 – 0) to deny the request.

VI. Recommendations

Under normal circumstances, opposition from 24 neighbors within the 1,000 foot notification buffer would become the leading factor against approval of a Special Use or Modification request. Such strong opposition would normally override any factors in favor of approval, and staff would recommend denial as a result.

What is different about this case are the statements from emergency services providers, who have expressed their support for the request due to a desire to access the site via the routes to which they are accustomed, along routes with better surface quality (paved as opposed to dirt/gravel). They maintain that accessing the site as requested would provide, under normal circumstances, a quicker, safer route to the site. When ambulances or other first responders are called to Windmill Ranch, they are being called in to save lives. The Community Development Department cannot in good conscience make a recommendation that would conflict with stated the needs of emergency service providers.

Based on the factors in favor of approval, staff recommends that the Board grant the Appeal.

Sample Motion: *"Mr. Chairman, I recommend the Board grant the appeal of the Commission's November 10th ruling on the Elder Care for Life Special Use Modification as requested by the Applicant and as recommended by Staff."*

VII. ATTACHMENTS

A. Docket SU-09-08 Staff Memo
B. Location Map
C. Recorded September 2010 Survey
D. Transportation Planner's Comments
E. Citizen Review
F. Public Comment
G. Other Agency Comments
H. Support/Protest Map
I. SU-09-08 and 09-08A Commission Meeting Minutes
J. Appeal Form
K. Private Maintenance Agreement

Docket SU-09-08A

Appeal of a Special Use Modification Denial
by the Planning and Zoning Commission

Cochise County Board of Supervisors

January 4, 2011

Docket SU-09-08A

- The Applicant, Elder Care for Life, currently operates a Residential Care Institution on the property (Windmill Ranch), as allowed by Special Use pursuant to Section 707.06 of the Zoning Regulations.

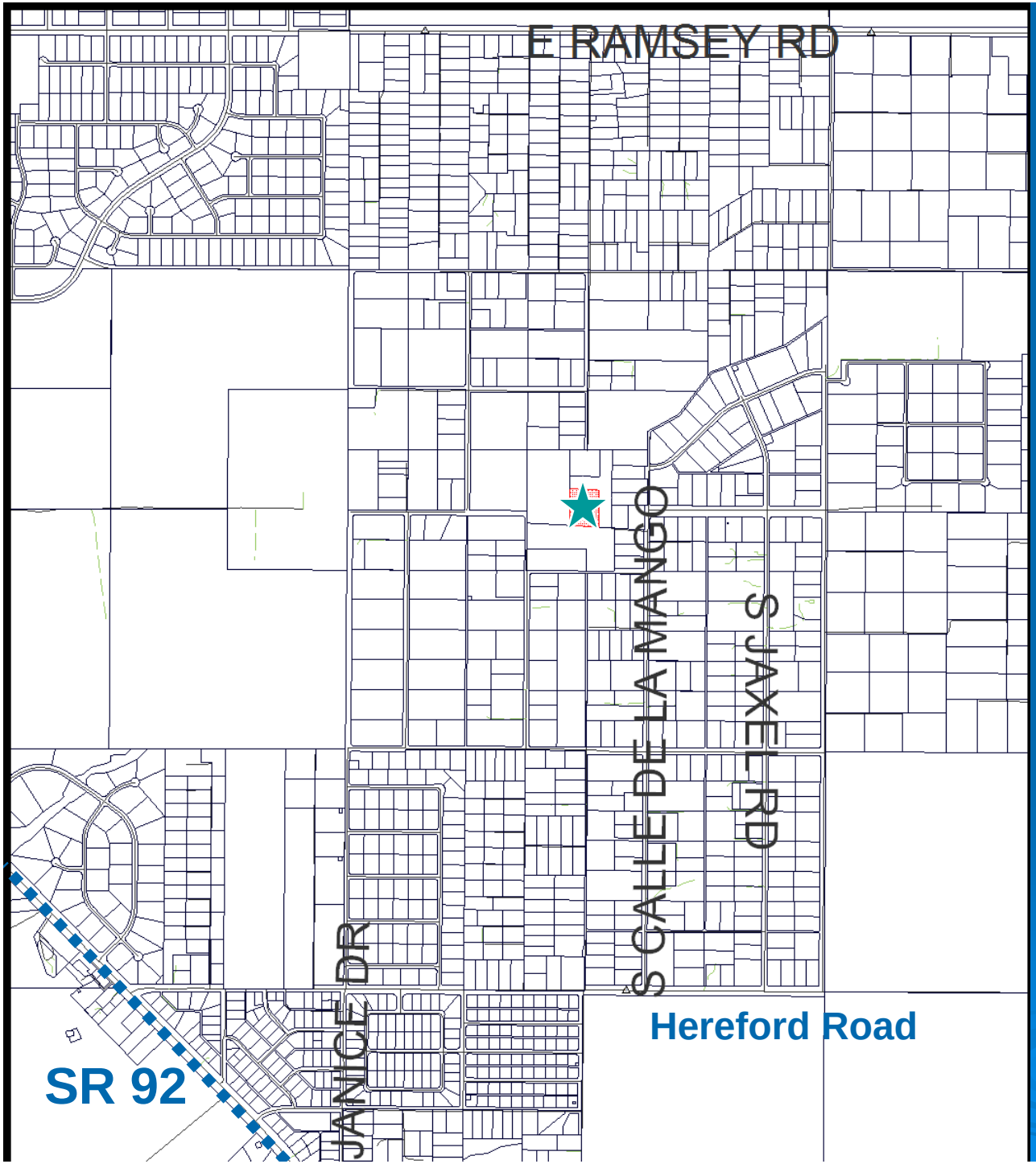
- The Planning and Zoning Commission authorized the Special Use in March of 2009, with approval conditions requiring the Applicant to direct associated traffic to Calle de Naranja, a County-maintained road West of the property.

- In November of 2010, the Applicant sought a Special Use Modification, to have these approval conditions removed from the Special Use and allow traffic to access Calle de Mango, a County-maintained road East of the property.

Docket SU-09-08A

- The Commission denied the request, and the Applicant now appeals the ruling to the Board of Supervisors.
- The subject parcel (Parcel # 104-02-006F) is located at 5605 E Labrador Lane in Hereford, AZ.
- The Applicant is Nathan Yarborough of Elder Care for Life.

Location Map



The Subject Property is approximately one mile North of Hereford Road.

Nature of Request

The Applicant asked the Commission to remove the following approval conditions from SU-09-08:

A. Require all traffic accessing the site to use the Calle de la Naranja route;
B. Post a sign at the property line along Labrador Lane, instructing visitors to use the Calle de la Naranja route; and
C. Inform employees, delivery drivers, and residents' family members in writing to access the site through the Calle de la Naranja route.

Calle de Naranja and Calle de Mango are both County-maintained; Labrador Lane is a private easement.

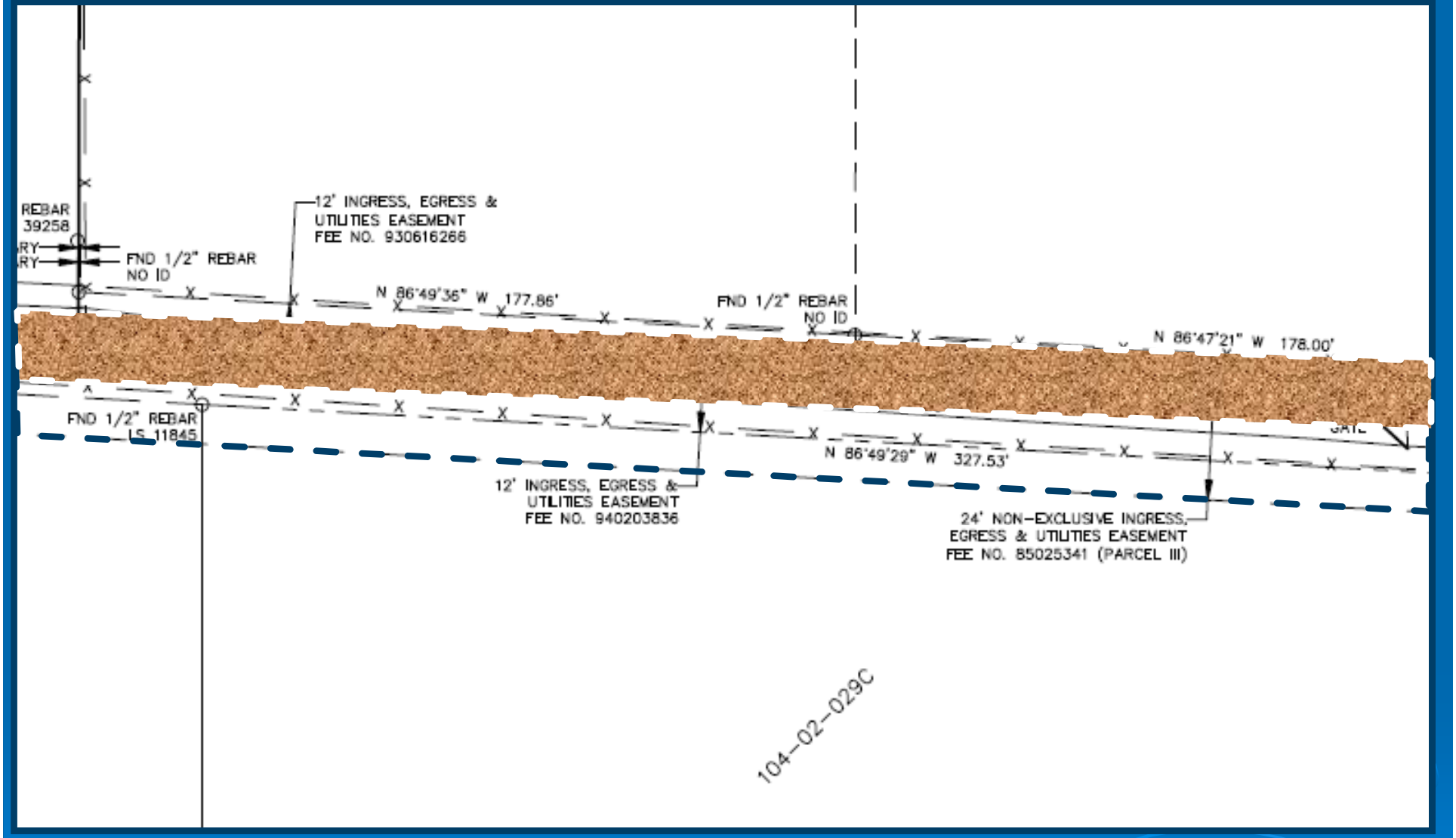
Site Photos

North along Calle de la Naranja just before it turns to Labrador Lane.

Southwest view of the bend at Calle de la Naranja and Labrador Lane.

Close-up of damage to the roadway at the bend.

Westward view along Labrador Lane, as seen from Calle de la Mango, prior to the 2009 Special Use hearing.



- *Survey Map detailing the location of the Labrador Lane travelway relative to the easement location.*

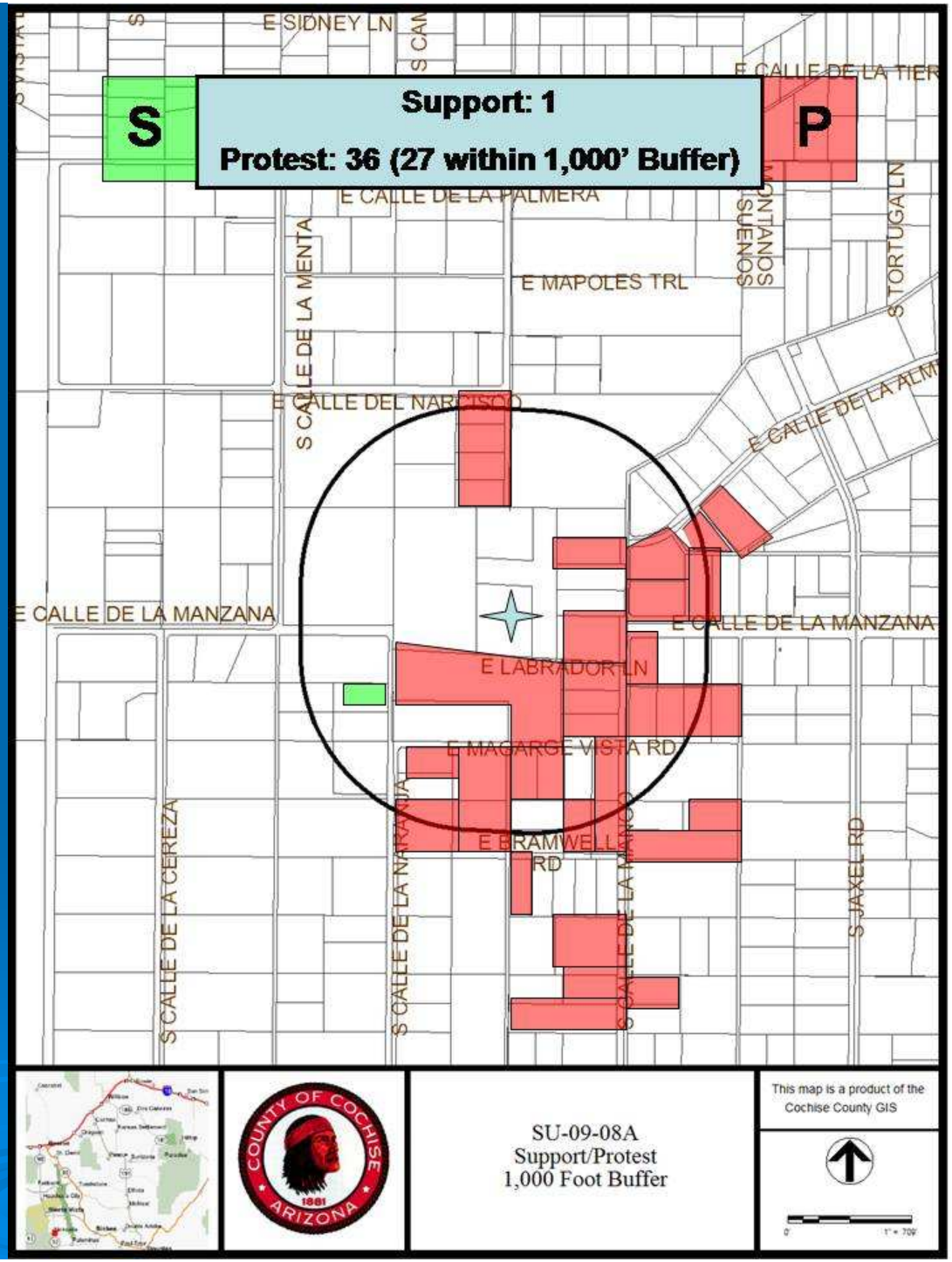
Looking West along Labrador Lane, December 2010.

Close-up of the new fence and trenches dug across Labrador Lane.

Support and Protest

Staff received significant opposition from neighbors regarding the request, most in the form of protest letters signed by residents, as well as a petition circulated through the neighborhood.

Neighbor concerns included traffic, safety, and a perceived diminution of the residential character of the neighborhood.



Factors in Favor of Granting the Appeal

1. Emergency Services providers including ambulance, fire and mortuary services expressed support in writing for the Special Use Modification request.

2. One neighbor, along Calle de la Naranja, expressed support for the Modification request.

Factor Against Approval

1. The Department received statements of opposition to the Modification request from 36 neighbors, 27 of which are within the 1,000 foot notification buffer.

2. At their regular meeting of November 10, 2010, the Planning and Zoning Commission voted unanimously (7 – 0) to deny the request.

Calle de Mango
Labrador Lane
Calle Naranja

Recommendation

Based on the factors in favor of approval, staff recommends that the Board grant the Appeal.

COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
Fax 432-9278

Susan Buchan, Director

MEMORANDUM

TO: Cochise County Planning and Zoning Commission

FROM: Keith Dennis, Planner

For: Susan Buchan, Planning Director

SUBJECT: Docket SU-09-08 (Elder Care for Life)

DATE: February 26, 2009, for the March 11, 2009 Meeting

APPLICATION FOR A SPECIAL USE

The Applicant requests a Special Use Permit to allow a Residential Care Institution on a 3-acre parcel in a TR-36 District, pursuant to Section 707.06 of the Zoning Regulations. The Applicant intends to add two additional residents in an existing, permitted Residential Care Home. No expansion to the existing home is proposed.

The subject parcel (Parcel # 104-02-006F) is located at 5605 E Labrador Lane in Hereford, AZ. It is further described as being situated in Sections 5 and 8 of Township 23, Range 21 East of the G&SRB&M, in Cochise County, Arizona.

Applicant: Monica Vandivort of Elder Care for Life

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 2.98 Acres

Zoning: TR-36 (1 dwelling per 36,000 square feet)

Growth Area: Category B (Community Growth Area)

Plan Designation: NC – Neighborhood Conservation

Area Plan: None Applicable

Existing Uses: Residential Care Home

Proposed Uses: Residential Care Institution

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	TR-36	Undeveloped Land
South	TR-36	Single Family Residence
East	TR-36	Undeveloped Land
West	TR-36	Undeveloped Land

II. Parcel History

There are no violations associated with the subject property.

Per the Applicant, the structures on the property were constructed in the 1960s. The County has no record of permits for the construction of any structure on the site.

In 2007, the Applicant obtained a permit for a Residential Care Home with up to six residents ("Windmill Ranch"). The facility opened in January of 2008. The Application did not include any new construction or interior modifications to the home.

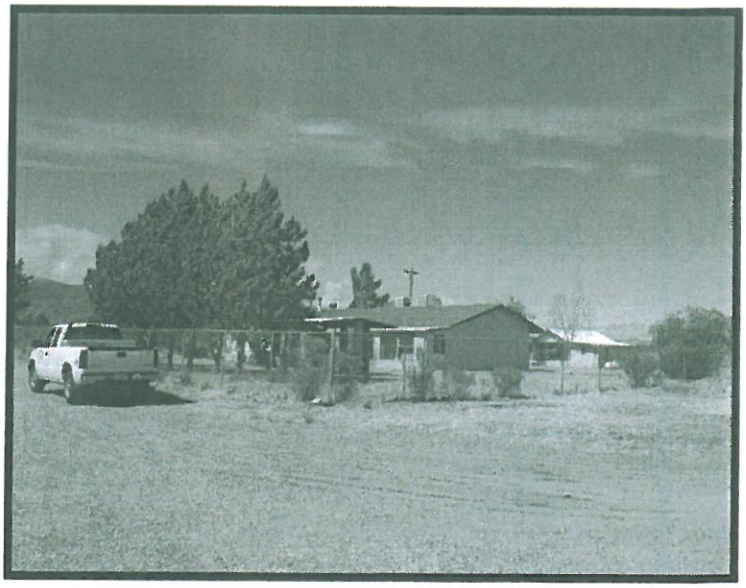
III. Project Description

As defined in Article 2 of the Zoning Regulations, a Residential Care Home is intended to provide housing, supervisory personal or custodial care for up to six residents; with caretakers, the operator of the home, and family members who may reside in the home, the maximum number of residents allowed is 10.

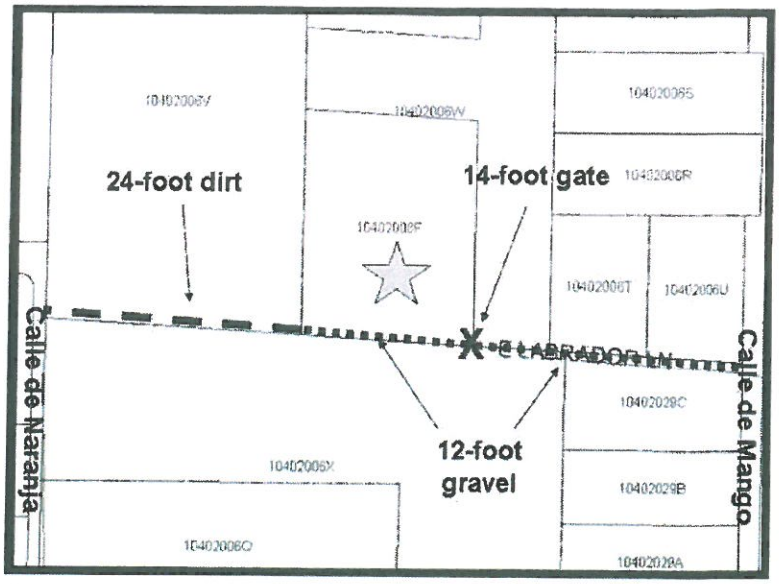
For applicable site development standards, the Zoning Regulations treat Residential Care Homes as single-family dwellings not subject to non-residential site development standards.

The Applicant seeks to expand the number of residents at the existing facility from six to eight. The Zoning Regulations would then define the project site as a Residential Care Institution, subject to non-residential site development standards; in a TR Zoning District, such Institutions are allowed by Special Use, per Section 707.06.

As with the initial Residential Care Home permit, no new construction is proposed as part of this expansion. The Applicant maintains that there is adequate space to provide residency for two additional persons without the need for a building addition.



Northwest view of Windmill Ranch.



The Labrador Lane roadway is 24 feet wide between Calle de Mango and Calle de Naranja, both of which are County-maintained roads.

Westward view of Labrador Lane as seen from the Calle de Mango entrance. This private easement is improved with a 12-foot gravel surface, surrounded by 6 feet of native vegetation on either side.

A 11

IV. ANALYSIS OF IMPACTS (SEE CONDITIONS #2 AND 3, REQUESTED MODIFICATIONS)

Impacts associated with the proposal are limited to traffic. The Applicant estimates an average of 11-25 trips per day for passenger cars, as well as twice-weekly trash pickup and a weekly truck delivery of medical supplies.

Labrador Lane is a 24-foot wide private easement running between Calle de Mango on the East side and Calle de Naranja on the West. On the East side, the easement features a single, 12-foot wide drive lane with 6 feet of vegetation on either side. Westbound traffic along this route passes through a 14-foot wide gate at the property entrance, and the gravel roadbed continues along the Southern length of the property. Continuing West and off the property towards Calle de Naranja, the easement is improved with a 24-foot wide dirt road.

As the attached Citizen Review and Public Input letters indicate, neighbors East of the property have indicated concern over traffic along the Calle de Mango route. The Applicant has responded to these concerns by requiring employees and delivery trucks to use the Calle de Naranja route. Staff recommends that the Applicant address traffic concerns in the following ways:

A. Enter into a private maintenance agreement with the County, to ensure that Labrador Lane is maintained in a safe, passable condition;

B. Require all traffic accessing the site to use the Calle de Naranja route;

C. Post a sign at the intersection of Calle de Mango and Labrador Lane, instructing visitors to use the Calle de Naranja route; and

D. Inform employees, delivery drivers, and residents' family members in writing to access the site through the Calle de Naranja route.

Looking West on Labrador Lane, as seen from the subject property. The gravel surfacing ends at the property line, after which the easement becomes a 24-foot wide dirt road.

While it seems clear that some drivers, especially those accessing the site for the first time, will use the Calle de Mango route in error, the above conditions are anticipated to be effective in directing traffic away from the more developed portions of the neighborhood.

As shown on the site plan, the driveway running North from Labrador Lane to the parking area sits on the Western property line. Section 1804.06.F requires that driveways used to access parking areas be a minimum of 15 feet from an adjacent residentially-zoned property. The property immediately West of the project site is zoned TR-36. The Applicant has asked for a modification to this Section to allow the driveway to remain in its current location.

Section 704.07 requires that the developed area of non-residential land uses in a TR District be screened from adjacent residentially-zoned properties with a 6-foot high screening device. The Applicant has asked for a waiver of this site development standard as well.

The adjacent property is undeveloped at this time, but may be developed in the future. At that time, this neighboring property may experience off-site impacts related to traffic accessing the site along the property line. Such impacts could be mitigated by screening that portion of the Western property line along which the driveway and parking area are situated. Section 704.07 also carries a provision allowing the Zoning Inspector to defer screening "if the abutting residentially-zoned property is not yet developed with a residential use." While staff has no issue with the screening modification request overall, there remains concern about future off-site traffic impacts when the adjacent property to the West is developed. Staff recommends, as Condition #3, that the Applicant provide a 6-foot solid screen along the Western property line, from the driveway entrance at the Southeast corner of the property along the length of the driveway and parking area when the abutting TR-36 property is developed. This would screen the driveway and parking area from the abutting property to the West.

V. DEED RESTRICTION

The property and Labrador Lane are both subject to restrictions that took effect when the property was originally deeded. The deed, the applicable portions of which are attached to this Memo, dates from 1985, and covers the subject property and Labrador Lane. A map showing the affected area is also attached. The applicable language on the deed is as follows:

Single family and private residence only. With construction of permanent nature attached to the property. Absolutely restricted against Mobile Homes single or double-wide, Modular Homes, single or double-wide and trailers. Pre-fab structures shall not be placed on the subject property.

No commercial businesses or pet businesses shall be operated from the premises of any of the lots, except for the boarding of horses within reason.

The language on the deed, which applies to several parcels North of Labrador Lane and to the easement itself, thus restricts the use of the land and easement. Although this Memo deals primarily with the land use implications of the proposal, the restriction against businesses constitutes a strong factor in favor of denial.

VI. COMPLIANCE WITH SPECIAL USE FACTORS (SECTION 1716.02)

Section 1716.02 of the Zoning Regulations provides a list of 10 criteria with which to evaluate Special Use applications. These are considered factors in determining whether or not to approve a Special Use Permit, as well as to determine what conditions and/or modifications may be needed. Seven of the 10 criteria apply to this request. The project complies with five of the seven criteria, subject to conditions of approval and requested modifications to site development standards where applicable.

A. Compliance with Duly Adopted Plans: Does Not Comply
The subject property is within a Category B, Neighborhood Conservation area on the Comprehensive Plan. Neighborhood Conservation areas are in part so designated when an area "is a developed residential neighborhood that warrants protection from non-residential land uses." From a zoning perspective, the proposal is for a non-residential land use, which generates a greater level of traffic than it would if the property were used as single family residential.

However, it should be noted that, as an assisted-living home, the purpose of the existing and proposed land use is to provide a home for individuals in need of supervisory care in a residential environment. Although in a strict sense the land use is a business and therefore non-residential, particularly with regard to site development standards and the necessity of the Special Use public process, the Applicant intends to maintain the residential scale of the property within its rural residential environs.

B. Compliance with the Zoning District Purpose Statement: Complies
Section 701.01 states that the purpose of the TR District is "to provide an area for family living at a variety of low to medium densities." Although, as discussed above, the proposal is non-residential from a land use perspective, the nature of the business is to provide a residential environment for long-term, end of life care for elderly persons. With a three-acre site, the proposal would be approximately the same density as would three single-family residences, assuming a family size of four persons.

C. Development Along Major Streets: Not Applicable

D. Traffic Circulation Factors: Does Not Comply
Compliance with this factor in part depends upon using streets according to their design and purpose. The proposal would generate non-residential traffic along streets designed to serve rural residential areas.

Prior to submitting the application the Applicant conducted traffic surveys on two separate dates in September of 2007: one in the morning hours and one in the afternoon. The results of this survey are attached to this Memo.

E. Adequate Services and Infrastructure: Complies (Subject to Conditions #2 and 4)
The site is served by the Southern Sunrise water company and Sulphur Spring Valley Electric Cooperative. An on-site propane tank provides natural gas, and the property is within the Fry Fire District.

The Health Department has determined that the existing septic system on the property may not be adequate for the proposed use. Their comments are also attached to this Memo. Staff

recommends, as Condition of approval #6, that the Applicant adhere to the requirements of the Health Department, prior to operation of the Special Use.

While, as discussed above, the project would result in non-residential traffic along residential streets, the actual impact of such traffic is consistent with the expected traffic volume of an otherwise residentially-developed site. The Transportation Planner's comments (attached) state that the site "would not be expected to produce much more in the way of traffic with the proposed use than would be on this parcel if it were built out to the full extent of the TR-36 zoning." Condition #2 would require the Applicant to enter into a private maintenance agreement for the length of Labrador Lane between Calle de Naranja and Calle de Mango, which are both County-maintained roads. This would ensure that the road remains adequate for the proposed use.

F. Significant Site Development Standards: Does Not Comply (See Requested Modifications, Conditions #3 and #5)
The proposal is deficient with regard to the following site development standards:

1. The required six parking spaces and one ADA space are not labeled on the site plan;

2. The driveway accessing the parking area is situated along the Western property line; the requirement is that the driveway be at least 15 feet from a residentially-zoned site (1804.06.F). The Applicant requests that the Commission waive this standard;

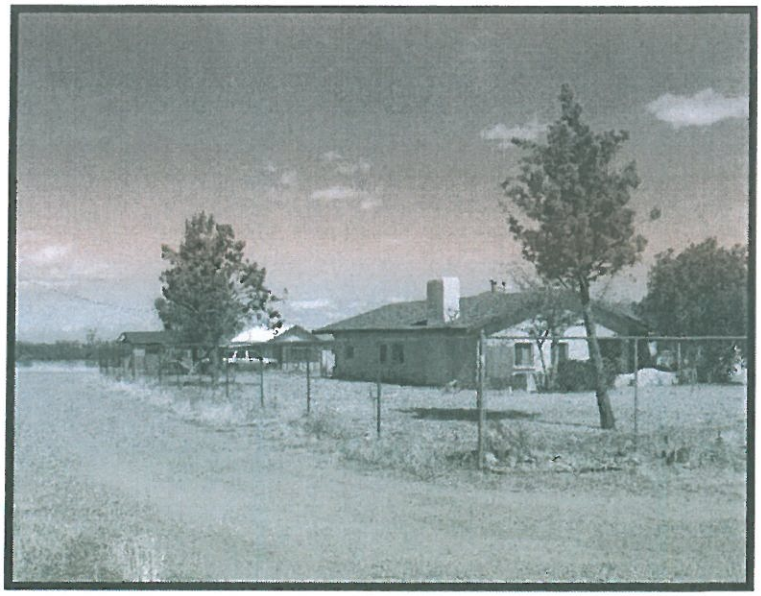
3. Screening, as required by Section 707.04, is not shown on the plan. The Applicant requests that the Commission waive this standard. Staff recommends that screening along the Western property line be deferred until the adjacent TR-zoned property is developed (see Condition #3);

4. Although Labrador Lane is 24 feet wide as required by Section 1804.06.F.3, a gate across the road, on the Eastern property line, is 14 feet wide. The Applicant requests that the Commission modify this standard to allow the gate to remain; and

5. The proposal does not include landscaping, which is required on no less than 5% of the developed site area (1806.02.B). The Applicant requests that the Commission waive this standard as well.

Condition #3 would ensure that screening is provided along the Western property line when the abutting TR-36 property develops; Condition #5 would require that the Applicant revise the site plan to label the parking area.

G. Public Input: Complies
Prior to submittal, the Applicant engaged in a thorough Citizen Review process. Three of the five respondents indicated opposition to the proposal, primarily based on traffic concerns. The Applicant responded to traffic concerns along the Calle de Mango access by requiring that employees and delivery drivers instead use the Calle de Naranja access. Condition #2 would make the Applicant's voluntary changes to the traffic pattern into conditions under which the Special Use is allowed to operate.



Northeast view of the subject property from the driveway entrance onto Labrador Lane. The driveway and parking area are situated along the Western property line.

H. Hazardous Materials: Not Applicable

I. Off-site Impacts: Complies (Subject to Conditions #2 and 3)
Off-site impacts are discussed in Section IV of this Memo.

J. Water Conservation: Not Applicable
The project uses existing water fixtures in a single-family residence. No new construction is proposed, and the principal use on the property occupies less than one acre.

VII. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 1,000 feet. Staff posted the property on February 17, 2009 and published a legal notice in the *Sierra Vista Herald* on February 24, 2009. To date, the Department has received no letters of support and one letter of opposition to the Special Use request. However, the letter opposing the request indicates that the property owner could support the proposal if project traffic were made to use the Calle de Naranja entrance.

VIII. SUMMARY AND CONCLUSION

Factors in Favor of Allowing the Special Use

1. The business provides a valuable and needed service to the elderly population of Cochise County. Per the Applicant, there is a waiting list for persons seeking care at the facility.

2. The Applicant has addressed the traffic concerns of neighbors East of the property, along Calle de Mango, by requiring employees and delivery drivers to access the property through the Calle de Naranja access.

Factors Against Approval

1. The property and the easement by which it obtains access are restricted by the warranty deed to single-family residential use only, with a specific prohibition on business land uses.

2. One neighbor would oppose the Special Use request, but would support it if Condition #2 were applied to the approval.

IX. RECOMMENDATIONS

The deed restriction language limiting the property and easement to single family residential use constitutes a strong factor in favor of denial. The Commission may decide that this factor alone is sufficient to warrant a denial of the request.

Staff's analysis is concerned with the land use implications of the proposal; based on the land use analysis, staff recommends **conditional approval** of the Special Use request, with the following conditions:

1. Within thirty (30) days of approval of the Special Use, the Applicant shall provide the County a signed Acceptance of Conditions form and a Waiver of Claims form arising from ARS Section 12-1134. Prior to operation of the Special Use, the Applicant shall submit and obtain a building/use permit for the project within 12 months of approval, including a completed joint permit application. The building/use permit shall include a site plan in conformance with this approval and with Section 1705 of the Zoning Regulations, and meeting all site development standards (except as modified), the completed Special Use permit questionnaire, and appropriate fees. A permit must be issued within 18 months of the Special Use approval, otherwise the Special Use may be deemed void upon 30-day notification to the Applicant.

2. Prior to operation of the Special Use, the Applicant shall:

    A. Enter into a private maintenance agreement with the County, to ensure that Labrador Lane is maintained in a safe, passable condition;

    B. Require all traffic accessing the site to use the Calle de Naranja route;

    C. Post a sign at the intersection of Calle de Mango and Labrador Lane, instructing visitors to use the Calle de Naranja route; and

    D. Inform employees, delivery drivers, and residents' family members in writing to access the site through the Calle de Naranja route.

3. When the abutting TR-36 zoned property to the West develops, the Applicant shall screen the Western property line along the length of the driveway and parking area with an approved 6-foot high, opaque screening device.

4. Prior to operation of the Special Use, the Applicant shall abide by the requirements of the County Health Department.

5. Prior to the issuance of a building or use permit, the Applicant shall revise the site plan to label the location and dimensions of the six required parking spaces, and the one required ADA parking space. The ADA space shall be labeled as having a firm, stable surface, with a firm and stable path from the parking space to the nearest building entrance.

6. It is the Applicant's responsibility to obtain any additional permits, or meet any additional conditions, that may be applicable to the proposed use pursuant to other federal, state, or local laws or regulations.

7. Any further changes to the approved Special Use Modification shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

X. Requested Modifications to Site Development Standards

The Applicant requests the following modifications to site development standards:

1. To Section 1804.06.F, to allow the existing gravel driveway along the Western property line to remain at the property line;

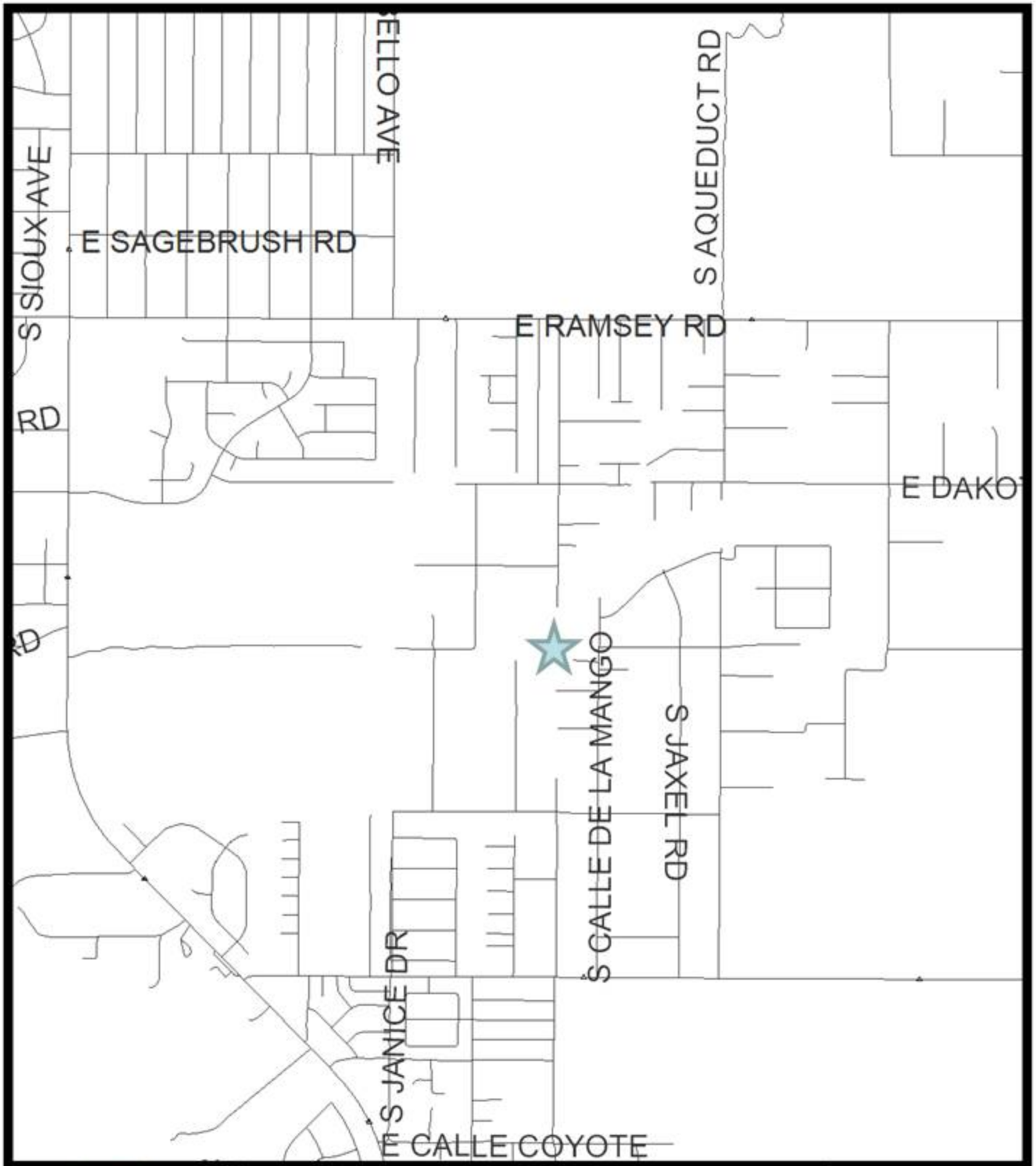
2. To Section 707.04, which would require that the use be screened from adjacent, residentially-zoned properties with a 6-foot high, solid screening device. (Staff recommends that screening along the Western property line be instead deferred until the adjacent TR-zoned property is developed – see Condition #3);

3. To Section 1804.06.F.3, in order to allow the existing 14-foot wide gate to remain on Labrador Lane, rather than the required 24 feet;

4. To Section 1806.02.B, which would require landscaping on no less than 5% of the developed site area.

XI. Attachments

A. Special Use Application
B. Location/Surrounding Zoning Map
C. Site Plan
D. Property Deed and Map
E. Health Department Comments
F. Transportation Planner's Comments
G. Applicant's Traffic Study
H. Request for Modifications to Site Development Standards.
I. Citizen Review
J. Public Comment



Docket SU-09-08A
Elder Care For Life
BOS Appeal

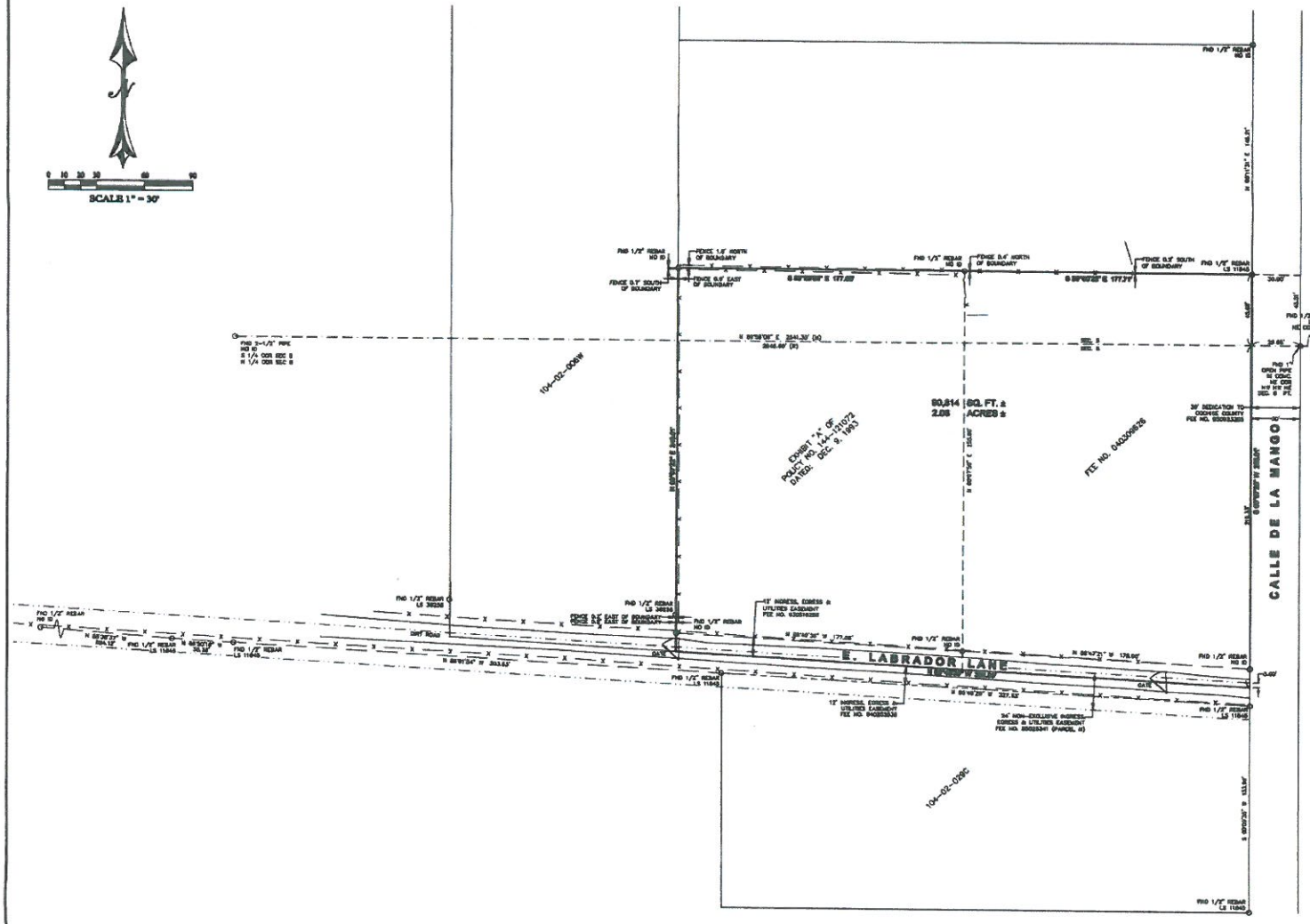
This map is a product of the Cochise County GIS

0' 1" = 2181'

This document is a graphic representation only of best available sources.

RECORD OF SURVEY

SCALE 1" = 30'



LEGEND:

- SET 1/2" REBAR WITH SURVEYOR'S CAP RLS 23579 UNLESS OTHERWISE NOTED
- ○ OTHER MONUMENTS FOUND AS NOTED
- (M) MEASURED DATA
- (R) RECORD DATA PER GARDEN VALLEY PLAT, BK. 4, PG. 33
- — x — EXISTING FENCE

BASIS OF BEARING:

BEARINGS ARE BASED ON OBSERVATIONS USING GLOBAL POSITIONING EQUIPMENT

RESOURCE DOCUMENTS:

FEE NOS.: 0403096026
0403096041
0403096042
0303033333
0303033333
0303033333
0403225041

DKT. 333 PG. 333

COCHISE COUNTY RECORDS
COCHISE COUNTY, ARIZONA

TITLE REPORT PROVIDED BY THE CLIENT
POLICY NO. 144-121072
EFFECTIVE DATE: DECEMBER 6, 1993

NOTE:

LOCATION OF UTILITIES AND APPURTENANCES ARE BEYOND THE SCOPE OF THIS SURVEY.

CERTIFICATION:

I HEREBY CERTIFY THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION AND THAT THE PROPERTY CORNERS AND SURVEY MONUMENTS EXIST AS SHOWN HEREON.

ARIZONA LAND SURVEYOR
DONALD J. LOOSE
23579
ARIZONA, U.S.A.

DONALD J. LOOSE R.L.S. # 23579 DATE:
EXPIRES: 03-30-2013

RECORDING DATA:

STATE OF ARIZONA }
COUNTY OF COCHISE } SS

FILED FOR RECORD AT THE REQUEST OF ARIZONA LAND SPECIALISTS, INC.
ON THIS _____ DAY OF _____ 20
IN BOOK _____ OF MAPS OF SURVEYS AT PAGE _____ THEREOF.
FEE NO.

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

COCHISE COUNTY RECORDER/DEPUTY COUNTY RECORDER

ALTA Land Survey

SURVEYING, CONSTRUCTION STAKING & DRAFTING
1403 HIGHWAY 92
Bisbee, Arizona 85603
(520) 432-4800 FAX (520) 432-2414

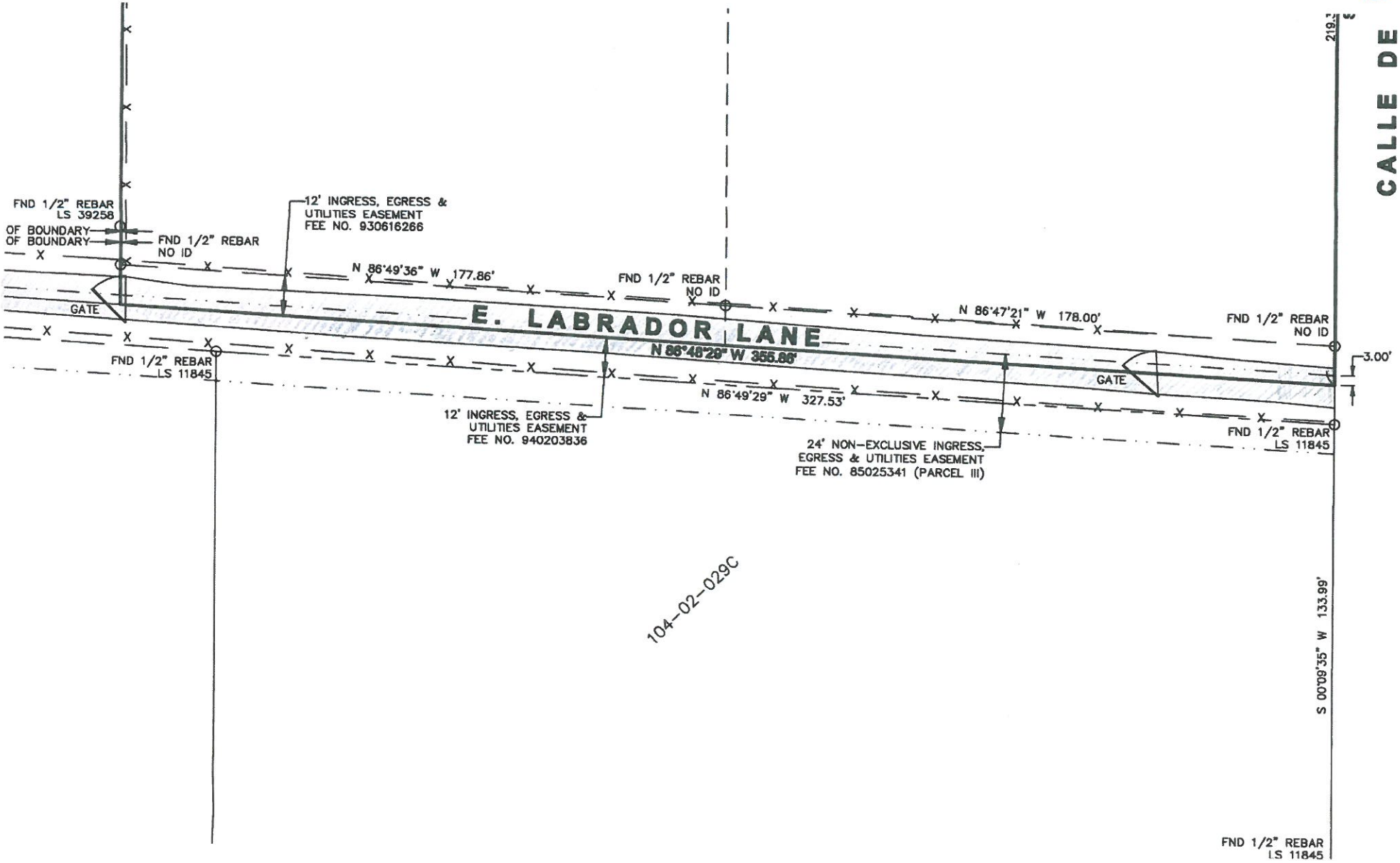
REVISIONS			
NO.	DESCRIPTION	BY	DATE

FEE#_____ BOOK____ SURVEY, PAGE____

A PORTION OF SECTION 5 & SECTION 8, T-23-S, R-21-E, OF THE GILA AND SALT RIVER MERIDIAN, COCHISE COUNTY, ARIZONA

E. LABRADOR LANE

PROJECT NO. 10-109	Drawn By: AMH	Date: 08/02/2010	
	Checked By:	Sheet: 1 of 1	


FND 1/2" REBAR
LS 39258
OF BOUNDARY
OF BOUNDARY
FND 1/2" REBAR
NO ID
12' INGRESS, EGRESS &
UTILITIES EASEMENT
FEE NO. 930616266
N 86°49'36" W 177.86'
FND 1/2" REBAR
NO ID
N 86°47'21" W 178.00'
FND 1/2" REBAR
NO ID
GATE
E. LABRADOR LANE
N 86°48'29" W 355.86'
FND 1/2" REBAR
LS 11845
GATE
3.00'
N 86°49'29" W 327.53'
12' INGRESS, EGRESS &
UTILITIES EASEMENT
FEE NO. 940203836
24' NON-EXCLUSIVE INGRESS,
EGRESS & UTILITIES EASEMENT
FEE NO. 85025341 (PARCEL III)
FND 1/2" REBAR
LS 11845
CALLE DE
S 00°09'35" W 133.99'
FND 1/2" REBAR
LS 11845
104-02-029C

COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety
1415 Melody Lane, Bisbee, Arizona 85603 **(520) 432-9240 Fax 432-9278**

James Vlahovich, Deputy County Administrator
Interim Planning Director

MEMORANDUM

TO: Keith Dennis, Planner II

FROM: Karen L. Lamberton, County Transportation Planner

SUBJECT: Eldercare for Life/Windmill Ranch Residential Care Facility
SU-09-08A\Parcel #104-02-006F

DATE: **October 21, 2010**

The owners of the Elder Care for Life/Windmill Ranch residential care facility are seeking to modify conditions related to the operation and traffic circulation on their existing residential care home, currently approved per SU-09-08 for eight (8) residents. The site is on approximately three (3) acres and expansion to the existing buildings has not been proposed. A commercial permit (CP-09-5029) was obtained; however, a certificate of occupancy for the additional two (2) residents approved in 2009 has yet to be issued.

Traffic analysis completed during the previous Special Use Permit process in Feb. 2009 found the following: Based on a maximum of eight beds, trip generation could be expected to average 18.96 trips per day, per the ITE Manual, 7th edition. Most of these trips would be off-peak hours and would be similar, or slightly higher, over the weekends. The applicants indicate that this would be a fully staffed 24/7 facility which would have the potential of slightly higher trip rates, based on number of employees, estimated at about 26.25 trips per day, based on the low range (small scaled/rural facility) trip generation rates per the ITE Manual, 7th edition. This site would not be expected to produce much more in the way of traffic with the proposed use than would be on this parcel if it were built out to the full extent of the TR-36 zoning. Comparative trip generation rates for a single family housing are an average of 9.57 with a range of 4 to 22 trips per day. The applicants anticipate approximately 12-15 vehicles per day in keeping with the estimated trip generation.

The site is served by Calle de Mango, a 20 foot, chip-sealed, rural-minor access county-maintained road (part of the Charleston Park subdivision) and by Calle de Naranja, also a 20 foot rural minor access road but is county-maintained as a native surfaced road. Calle de Mango does have pass through traffic using the subdivision roads to make a connection with other collector and arterials roads like Hereford Rd. further south of the subject parcel. Labrador Lane, provides access to the parcel from both Calle de Mango and Calle de Naranja, and is a private roadway with private easements along the 36-feet wide corridor with specific recorded conditions

(related to types of appropriate land uses for adjacent lots). A recorded deed for 24 feet of the Labrador Lane width is on file with the county. This easement information is provided as advisory information only and is not intended to substitute for title company documentation of legal access rights of property owners along Labrador Lane.

Notwithstanding the legal access provided by recorded easements along Labrador Lane the applicants were required to use an alternative route (Calle de Naranja rather than Calle de Mango) as the final leg to their site as part of a negotiated agreement with adjacent property owners, staff and the Commission. As typical for these type of uses taking primary access onto a private roadway a Private Maintenance Agreement for Labrador Lane was also required. The applicants were required to post a sign instructing visitors to use this alternative route; however, this condition, created in an attempt to address neighbor concerns, conflicted with the County sign regulations and was administratively modified on April 24, 2010 to direct the applicant to post such a sign at the entrance of their driveway on their own property rather than in the public right-of-way. The applicants were also to notify, in writing, employees, delivery drivers and family members of the preferred route access via Calle de Naranja.

The applicants now seek to modify these conditions citing to monsoon wash-outs along the alternative route and the need to ensure emergency vehicle access along Labrador Lane. It should be noted that these conditions were placed on the applicants in context of the increase from six to eight residents in their facility: a certificate of occupancy for the additional two residents has not yet been issued.

Recommendation

The traffic impact of a residential care facility of this size (8 residents) is minimal and would not require any significant infrastructure improvements at this time. The use, as noted previously, is the equivalent of the full-build out of this parcel within current zoning. From a traffic circulation standpoint the more direct and better maintained route is that of Calle de Mango to Labrador Lane. Calle de Naranja provides an adequate alternative route: there are no current plans to upgrade this road to a chip-sealed or better surface.

Condition C regarding the posting of a sign has been administratively modified to request posting on site rather than at the intersection of Calle de Mango and Labrador Lane. I would have no comment on the applicability, effectiveness or enforceability of requiring site directions to be provided in writing or by signs on site that may or may not match up with intuitive review of any local map. (For example: an inquiry on yahoo maps for direction to this site from Bisbee results in these directions: Turn R on E RAMSEY RD; Turn L on S CALLE LIMA ; Turn R on E CALLE DE LA ALMENDRA ; Turn L on S CALLE DE LA MANGO; Turn R on E LABRADOR LN ; Arrive at 5605 E LABRADOR LN, HEREFORD, AZ)

Typically, neighbors welcome the additional maintenance activities required under the Private Maintenance Agreement although the standard for such maintenance is "safe, passable" and does not reach to fully improving the roadway to county standards. The traffic impact of this proposed use does not reach to that level of mitigation although in some cases neighbors do work together to dedicate right-of-way to the County and participate in a partnership with the County to improve the roadway. Such a partnership has not been proposed on Labrador Lane. The

applicants have not asked to be relived of this condition; however, given the minimal traffic generation of this use, the Commission may make a determination of the necessity for the Private Maintenance Agreement if adjacent property owners do not desire maintenance activities to take place on their section of Labrador Lane.

The matter before the Commission is less of a traffic mitigation consideration as it is balancing stated neighborhood concerns about traffic-related concerns. This memo provides technical analysis of traffic impacts and the condition of the roadways that provide access to the approved residential care facility.

cc: Docket SU-09-08A;Diane Cratsenburg, Hwy/FP

ELDERCARE FOR LIFE, INC.

Helping the healing | Comforting the failing

BOARD OF DIRECTORS:
Monica Vandivort, M.D.
Mattie Stone, M.S.S.W.
Dawn Birtwell, M.A.

September 27, 2010

Re: Windmill Ranch on 5605 Labrador Lane

To: Cochise County Planning and Zoning

Dear Sir/ madam:

Please see our enclosed citizen review results. We had one person giving comments that are enclosed for your review. This gentleman lives on Calle de la Naranja. As you can see, he is strongly in favor of removing restrictions imposed on our use of Labrador Lane westward off Calle de la Mango. We request removal of the road use restrictions from our Special Use permit.

We appreciate your assistance. We have tried to please the neighbors also and have found it impossible to do so, and we feel Mr. Keith Dennis has also tried to please them. We appreciate his attempts and also feel similarly frustrated. Those neighbors want the road closed, and we would like to fight for our rights and keep it open.

Sincerely,

Monica Vandivort M.D./sm
Board of Directors

ELDERCARE FOR LIFE, INC.
6164 S Highway 92
PO Box 429
Hereford, AZ 85615
Phone (520) 803-1234
Fax (520) 803-6552
eldercare4life@dnamail.com

25
E

ELDERCARE FOR LIFE, INC.

Helping the healing | Comforting the failing

BOARD OF DIRECTORS:
Monica Vandivort, M.D.
Mattie Stone, M.S.S.W.
Dawn Birtwell, M.A.
Phyllis Andrew
Scott Wolfe

September 10, 2010

Dear Neighbors,

You are invited to submit comments on our request for a review of the road use restrictions for Windmill Ranch Assisted Living Home at 5605 E. Labrador Lane in Hereford, Arizona. We would like to unrestrict our use of the eastern section of Labrador Lane connecting with Calle de la Mango for egress and ingress. We need this eastern route to remain open and unobstructed for emergency vehicles to use, primarily, and for ease of families and visitors to the ranch.

We would be happy to meet with you or answer any questions you may have.

Submit written comments to:
Eldercare for Life, Inc.
P.O. Box 429
Hereford, Arizona 85615
Email comments to: windmillranch@mail.com
Phone comments/leave message at (520) 803-1234
or (520) 456-6518

Respectfully,

Scott Wolfe for
Board of Directors
Phyllis Andrew, Dawn Birtwell, Mattie Stone, Monica Vandivort, and Scott Wolfe

ELDERCARE FOR LIFE, INC.
6164 S Highway 92
PO Box 429
Hereford, AZ 85615
Phone (520) 803-1234
Fax (520) 803-6552
eldercare4life@dnamail.com

26

E

From: Mike Trujillo <cochiseout@msn.com>
To: windmillranch@mail.com
Subject: Eastment on Labador
Date: Sun, Sep 19, 2010 9:23 am
Attachments: 016.JPG (1091K), 017.JPG (1085K), 018.JPG (1100K), 019.JPG (1097K), 020.JPG (1101K)

My name is Michael Trujillo 6472 s. calle de la naranja (the last house on Naranja on the west side of street. I think its very important to allow unrestricted easement on Labrador.

I have considered a lawsuit on Cochise County if in fact the easement is legally gated. Is it a homeowner making his own law or was he granted special permission to place gates without considering the safety of the Ranch and the safety of Naranja residence, the most logical way to approach the Ranch is thru Mango (paved road) and Labador (graveled) not thru Naranja (barely maintained and extremely dangerous during bad weather and just a bad road that creates undo dust to Naranja residence).

1. If he was legally allowed to place gates what is the purpose (annoy users).
2. The county will be labile when an emergency vehicles is not able to get to location by a safe manner.
3. Calle Mango is paved and it is the proper means of getting to the Windmill ranch.
4. Calle naranja residents are subjected to extreme dust and wear and tear on an already not maintained road.
5. At night the Naranja road is dangerous (not lighted and it is impossible to drive on during monsoon or rainy days).
6. Why was ths resident granted special privileges and allowed to gate an easement ?
7. The County Judge and County roads are allowing privileges without taking consideration of other residents and the safety of the community.
8. I will sign anything to have the easement ungated, I might just sue the County and make them liable.

I have provided some pictures of total disregard for the safety of our community. In July and August there were days that if lighting would have hit the Ranch, emergency vehicles would have been able to get to there thru Naranja because the road was flooded. The turn has a 3ft-8ft drop that is washed away during rain storms. The Naranja road has boulders of up to 12 in in diameter and all kinds of debris. A picture is worth a thousand words, I have attached pictures because whoever is placing gates is doing is in a malicious matter.

Michael Trujillo
6472 S. Calle de La Naranja
Hereford AZ 85615
=

5 Attached Images

27
E

From: Mike Trujillo <cochiseout@msn.com>
To: windmillranch@mail.com
Subject: (no subject)
Date: Sun, Sep 19, 2010 9:34 am

Who is Keith Dennis in Cochise County Planning and Zoning he is the real culbrit because he has allowed special privilages. =

28
E

From: Mike Trujillo <cochiseout@msn.com>
To: windmillranch@mail.com
Subject: (no subject)
Date: Sun, Sep 19, 2010 9:30 am
Attachments: 001.JPG (1108K), 002.JPG (1105K), 003.JPG (1102K), 004.JPG (1108K), 005.JPG (1077K)

Do not repair the curve with the washout. Let the storms wash it away, now you trimmed the mesquites and filled some of the washout. let it grow in because everytime you repair you diminish the unsafe road.

Michael Trujillo
234-8620
=

5 Attached Images

29
E

From: Mike Trujillo <cochiseout@msn.com>
To: windmillranch@mail.com
Subject: (no subject)
Date: Sun, Sep 19, 2010 9:25 am
Attachments: 006.JPG (1079K), 007.JPG (1040K), 008.JPG (1080K), 009.JPG (1071K), 010.JPG (1064K)

More pictures of blocking pedestrians with cactus and rocks. =

5 Attached Images

E

Petition Opposing Eldercare for Life Request for Use of Easement to Calle de La Mango

Cochise County Planning
1415 Melody Lane
Bisbee, Arizona 85603

COCHISE COUNTY

PLANNING

We the undersigned have reviewed the facts and circumstances of the Eldercare for Life Incorporated request for use of the eastern section of E. Labrador Lane to Calle de La Mango. We do not support their request and staunchly oppose further use of privately owned easement property. *Cochise County granted the incorporation permit for business operation against an existing "no business" covenant and without notification of other county residents.*

Again, **we the undersigned adamantly oppose granting the request** for easement use by Eldercare for Life, Incorporated.

2 Name Jenny Kolar (Valdez) [signature]

Address 5691 E Bramwell Hereford AZ 85615

Name Kari Priddis Kari Priddis

Address 5677 E Bramwell Rd Hereford, AZ 85615

2 Name Charles & Lauren Padgett

Address 5604 E. Bramwell Rd Hereford 85615

Name Joe [signature]

Address 6676 Calle De LA Mango Hereford AZ

Name Mary Gule

Address 6716 Calle de la Mango, Hereford 85615

Name Bruce W Judson

Address 6760 S Calle de La Mango

Name 6719 S. Calle de la Mango [signature]

Address

Name [signature]

Address 5655 E. Margarita Vista Rd. Hereford AZ 85616

Name Jean Waters

Address 5792 E Calle Celmendra Hereford AZ 85615

Name Ken Sampson & Vickie Sampson

Address 6348 S Mango Hereford, AZ 85615

F. 31

Petition Opposing Eldercare for Life Request for Use of Easement to Calle de La Mango

Cochise County Planning
1415 Melody Lane
Bisbee, Arizona 85603

We the undersigned have reviewed the facts and circumstances of the Eldercare for Life Incorporated request for use of the eastern section of E. Labrador Lane to Calle de La Mango. We do not support their request and staunchly oppose further use of privately owned easement property. *Cochise County granted the incorporation permit for business operation against an existing "no business" covenant and without notification of other county residents.* This is a severe infringement on our rights as property owners. We are very displeased with the county for this act.
Again, **we the undersigned adamantly oppose granting the request** for easement use by Eldercare for Life, Incorporated.

2 Name WALTER & ANA EDSALL
Address 5636 MAGARGEE VISTA Rd HEREFORD AZ 85615
Name Carolyn Harkins
Address 5616 MAGARGEE VISTA Rd Hereford AZ 85615
Name Stephanie Voegeli
Address 5574 Magarage Vista Rd Hereford AZ 85615
Name Robert Spalding
Address 5726 E. Labrador Ln, Hereford, AZ 85615
2 Name JAMES RUBY Stacy Bonnett
Address 5734 E LABRADOR LN, HEREFORD AZ 85615
2 Name Ronald Theroux + Elaine Theroux
Address 5758 LABRADOR LN,
2 Name RON & NOELL CASTRO Ron Castro Noell Castro
Address 5780 E. LABRADOR LN HEREFORD, AZ 85615
2 Name LORENA BYERS Lorena Byers RICK BYERS
Address 6333 CALLE MANGO HEREFORD, AZ 85615
2 Name Jon & Elizabeth Woodard
Address 6567 Calle De La Mango Hereford, Az 85615
2 Name LINDA EASTLACK Paul Eastlack
Address 6583 Calle de la Mango Hereford AZ 85615

17 NAMES

F
32

Petition Opposing Eldercare for Life Request for Use of Easement to Calle de La Mango

Cochise County Planning
1415 Melody Lane
Bisbee, Arizona 85603

We the undersigned have reviewed the facts and circumstances of the Eldercare for Life Incorporated request for use of the eastern section of E. Labrador Lane to Calle de La Mango. We do not support their request and staunchly oppose further use of privately owned easement property. *Cochise County granted the incorporation permit for business operation against an existing "no business" covenant and without notification of other county residents.* This is a severe infringement on our rights as property owners. We are very displeased with the county for this act.
Again, **we the undersigned adamantly oppose granting the request** for easement use by Eldercare for Life, Incorporated.

Name Jim Dillahunt
Address 6460 S. Calle de la Mango
Name Joan Dillahunt
Address 6460 S. Calle de la Mango
Name Linda Barnett
Address 6452 S. Calle de la Mango
Name Morgan Barnett
Address 6452 S. Calle de la Mango
Name Walter W. Chapman
Address 6222 S Calle De La Rosa
Name Yadira Chapman
Address 6222 S. Calle De La Larosa.
Name Mary Ross
Address 6505 Calle de La Naranja
Name
Address
Name
Address
Name
Address

33
F
7 names

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

We do not support the request for Eldercare to use Labrador Lane to Calle de La Mango. We did not move here to have a continuous string of shift workers, delivery drivers, visitors, emergency vehicles and the like continually patrolling our neighborhood creating noise, dust and danger beyond reason. We moved here to enjoy the peace and quiet of the country.

The county's allowance for the facility to become established in our neighborhood in the first place when specific covenants are in place to prevent business operations is certainly not a credit to Cochise County. This is a residential area for families to enjoy peace and quiet, not a place for a commercial medical business that draws many strangers and excess traffic of every variety. Eldercare chose to place their business in the country, if they are allowed to stay at all, they need to use the county road system and leave the residential homeowners alone.

The easement they desire to use was originally a dead-end driveway to the home, now incorporation known as Windmill Ranch. The single track driveway was never a problem for us until Eldercare widened, graded, graveled and turned scores of vehicles loose on it. During the many months that Eldercare utilized the easement to Mango, we grew extremely tired of the problems they created. The dust and noise alone were beyond reason.

Being uninformed that a business was operating in that home, many in the neighborhood suspected a crack house operation because of the high volume of traffic at odd hours. That brings us to another point. Medical facilities store medications. This is a natural draw for violent criminal activity. Sealing the access from Calle de La Mango would at least keep that danger out of Calle de La Mango's part of the neighborhood.

Eldercare agreed to abandon the easement last year. However, to our displeasure, they have not held to their agreement. They have begun using it again. It is now time for them to stop.

Please, do not approve Eldercare's request for use of the Labrador easement. We expect a written response from your office regarding this matter.

Sincerely,

Mary Bridget Lemanski
Mary Bridget F. Lemanski
Chester S. Lemanski Jr.
Carl [illegible]

Name(s)

Address 6524 Calle de la Mango
Hereford, AZ 85615

34

F

Concerned Hereford Neighbors

September 18, 2010

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ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

Name(s) Joan Willahint

Address 6460 S. Calle de la Mango

35

F

Concerned Hereford Neighbors

September 18, 2010

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ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

Name(s) Linda Jaime Barnett

Address 6452 S. Calle de la Mango, Hereford, AZ 85615

36

F

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

Name(s) [illegible]

Address 5155 E. [illegible] Vista Dr.
Hereford AZ

37

F

Concerned Hereford Neighbors

September 18, 2010

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ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

38

Name(s) Kari Priddis

F

Address 5677 E Bramwell Rd Hereford, AZ 85615

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

Name(s) [illegible]

Address 6760 S. Calle De La Mango
Hereford AZ 85615

39
F

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

40

Name(s) Linda Eastlack

Address 6583 Calle de la Mango Hereford AZ 85615

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Please, do not approve Eldercare's request for use of the Labrador easement. We expect a written response from your office regarding this matter.

Sincerely,

Name(s) Charles + Lauren Padgett

Address 5604 E. Bramwell Hereford Az 85615

41

F

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

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The county's allowance for the facility to become established in our neighborhood in the first place when specific covenants are in place to prevent business operations is certainly not a credit to Cochise County. This is a residential area for families to enjoy peace and quiet, not a place for a commercial medical business that draws many strangers and excess traffic of every variety. Eldercare chose to place their business in the country, if they are allowed to stay at all, they need to use the county road system and leave the residential homeowners alone.

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Eldercare agreed to abandon the easement last year. However, to our displeasure, they have not held to their agreement. They have begun using it again. It is now time for them to stop.

Please, do not approve Eldercare's request for use of the Labrador easement. We expect a written response from your office regarding this matter.

Sincerely,

Name(s) [illegible] 42

Address 6670 Calle De La Mango Hereford AZ F

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

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Sincerely,

Name(s) Ron Castro Noelle E. Castro 43

Address 5780 E. Labrador Lane
Hereford, AZ 85615

F

Concerned Hereford Neighbors

September 18, 2010

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ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

Name(s) Donald Kerouf

Address 5758 LABRADOR LN.

44

F

Concerned Hereford Neighbors

September 18, 2010

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ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

45

Name(s) [signature] [signature] F

Address 5734 E LABRADOR LN, HEREFORD. AZ 85615

Concerned Hereford Neighbors

September 18, 2010

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ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

46
F

Name(s) Robert Spalding

Address 5726 E. Labrador Ln. Hereford AZ 85615

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

47

Name(s) Carolyn J. Harkins

F

Address 5616 Magargee Vista Hereford AZ 85615

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

48

Name(s) [illegible]

F

Address 5636 Magargee Vista Rd Hereford AZ 85615

Concerned Hereford Neighbors

September 18, 2010

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ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

Name(s) Mary Ellen + Thomas McCloskey

Address 6360 Calle de la Mango
Hereford, AZ 85615

Concerned Hereford Neighbors

September 18, 2010

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ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Sincerely,

Name(s) GERALD & KUNIE KUMMER

Address 6420 S. CALLE DE LA MANGO
HEREFORD, AZ 85615

F

50

Concerned Hereford Neighbors

September 18, 2010

COCHISE COUNTY
OCT 2 2 2010
PLANNING

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

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We'd like to make it clear that we are not happy to have any such a business operating in our rural neighborhood and we want no expansion of their operation nor allowance of any further encroachment on any residents.

We do not support the September 10, 2010 request by Eldercare. Approval of such a request would indicate to us that the county is again not acting in the best interest of it's residents. The county's approval of the business in our residential neighborhood in the first place makes us wonder what other encroachments Cochise County might approve that would be contrary to our interests and to our safety.

Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue,

Very Sincerely,

Name(s) Sarah Kirk

Address 63203 Calle De La Mango, Hereford AZ

F

Concerned Hereford Neighbors

COCHISE COUNTY
OCT 0 8 2010
PLANNING

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Very Sincerely,

Name(s) Marlan R. White Sandra White

Address 6407 Calle Mango, Hereford, AZ. 85615

F

Concerned Hereford Neighbors

COCHISE COUNTY
OCT 20 2010
PLANNING

September 18, 2010

Cochise County Planning Department
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1415 Melody Lane
Bisbee, AZ 85603

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Very Sincerely,

Name(s) Amy D. Hudder

Address 5756 Calle De La Almendra, Hereford AZ

F

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
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1415 Melody Lane
Bisbee, AZ 85603

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Very Sincerely,

Name(s) Charles E. Trusty

Address 5761 Calle de la Manzana
Hereford AZ 85615

F
54

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Very Sincerely,

COCHISE COUNTY
OCT 2 2 2010
PLANNING

Name(s) Jason Kirk

Address 6320 S. Calle De La Mango Hereford AZ

F

Concerned Hereford Neighbors

September 18, 2010

COCHISE COUNTY

PLANNING

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

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Very Sincerely,

JOHN C. BRYAN

Name(s) John C Bryan

Address 5714 Calle de la MANZAN

Residence Address 2014 N. 66 AVE
PHX, AZ 85035

F
56

Concerned Hereford Neighbors

September 18, 2010

COCHISE COUNTY

PLANNING

Cochise County Planning Department
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1415 Melody Lane
Bisbee, AZ 85603

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Very Sincerely,

Name(s) Sherry Woodward

Address 5585 E. Calle del Narciso
Hereford, AZ 85615

Concerned Hereford Neighbors

September 18, 2010

COCHISE COUNTY

PLANNING

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We do not support the September 10, 2010 request by Eldercare for Life, Incorporated to use easement property when a county road is obviously more accessible. Approval of such a request would indicate to us that the county is again not acting in the best interest of we residents. The county's approval of the business in our residential neighborhood in the first place makes us wonder what other encroachments Cochise County might approve that would be contrary to our interests our safety, and against written restrictions.

Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue and we expect notification of any supervisor meetings regarding this issue.

Very Sincerely,

Name(s) Kallin K. Bathgill

Address 6537 S. Calle de la Naranja
Hereford, AZ 85615

F
58

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

Many in our neighborhood were unaware that a business was being established in our residential country neighborhood until well after the fact. It is apparent that Eldercare snuck into our neighborhood without notification, and it would appear with the full approval of Cochise County.

Since no one was informed by either the incorporation or by the county that a business was to begin operating in our neighborhood, and with the sudden increase of traffic at all hours on the dead-end driveway to the old ranch house, many people suspected a drug or possibly a smuggling operation. We found out through others in the community that the county had approved a commercial business to operate in our residential area.

We'd like to make it clear that we are not happy to have any such a business operating in our rural neighborhood and we want no expansion of their operation nor allowance of any further encroachment on any residents.

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Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue,

Very Sincerely,

Walter Chapman

Name(s) Walter & Yoshie Chapman

Address 6222 S. Calle De La Rosa
Hereford AZ 85615

COCHISE COUNTY
PLANNING

F
59

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

COCHISE COUNTY
PLANNING

Dear Mr. Dennis,

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Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue,

Very Sincerely,

Name(s) Steilla A Smith

Address 6270 Calle de la Rosa
Hereford

F
60

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

Many in our neighborhood were unaware that a business was being established in our residential country neighborhood until well after the fact. It is apparent that Eldercare snuck into our neighborhood without notification, and it would appear with the full approval of Cochise County.

Since no one was informed by either the incorporation or by the county that a business was to begin operating in our neighborhood, and with the sudden increase of traffic at all hours on the dead-end driveway to the old ranch house, many people suspected a drug or possibly a smuggling operation. We found out through others in the community that the county had approved a commercial business to operate in our residential area.

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Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue,

Very Sincerely,

Name(s) Candace M. Coates

Address 6292 S. Calle de La Rosa
Hereford, AZ 85615

F 61

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

Many in our neighborhood were unaware that a business was being established in our residential country neighborhood until well after the fact. It is apparent that Eldercare snuck into our neighborhood without notification, and it would appear with the full approval of Cochise County.

Since no one was informed by either the incorporation or by the county that a business was to begin operating in our neighborhood, and with the sudden increase of traffic at all hours on the dead-end driveway to the old ranch house, many people suspected a drug or possibly a smuggling operation. We found out through others in the community that the county had approved a commercial business to operate in our residential area.

We'd like to make it clear that we are not happy to have any such a business operating in our rural neighborhood and we want no expansion of their operation nor allowance of any further encroachment on any residents.

We do not support the September 10, 2010 request by Eldercare. Approval of such a request would indicate to us that the county is again not acting in the best interest of it's residents. The county's approval of the business in our residential neighborhood in the first place makes us wonder what other encroachments Cochise County might approve that would be contrary to our interests and to our safety.

Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue,

Very Sincerely,

Name(s) Juan A. Hodgson

Address vacant lot west of Calle de la Mango between Bramwell & McGargee Vista

F 62

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

Many in our neighborhood were unaware that a business was being established in our residential country neighborhood until well after the fact. It is apparent that Eldercare snuck into our neighborhood without notification, and it would appear with the full approval of Cochise County although a "no business" covenant is in place.

Since no one was informed by either the incorporation or the by the county that a business was to begin operating in our neighborhood, and with the sudden increase of traffic at all hours on the dead-end driveway to the old ranch house, many people suspected a drug or possibly a smuggling operation. We found out through others in the community that the county had approved a commercial business to operate in our residential area against the covenant.

We'd like to make it clear that we are not happy to have any such a business operating in our rural neighborhood and we want no expansion of their operation or allowance of any further encroachment on any residents.

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Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue and we expect notification of any supervisor meetings regarding this issue.

Very Sincerely,

Name(s) Dawn Nuetze / [illegible]
Address PO Box 1063, Hereford AZ 85615

F 63

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

Many in our neighborhood were unaware that a business was being established in our residential country neighborhood until well after the fact. It is apparent that Eldercare snuck into our neighborhood without notification, and it would appear with the full approval of Cochise County.

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Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue,

Very Sincerely,

Name(s) Theresa Boggie (Theresa Boggie)

Address 8248 S Sexton Place PO Box 1721
Hereford, Az 85615

F
64

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

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Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue,

Very Sincerely,

Name(s) Lorena Byers Rick Byers

Address 6333 Calle Mango

F 65

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

COCHISE COUNTY

PLANNING

Dear Mr. Dennis,

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Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue,

Very Sincerely,

Name(s) Jean Waters

Address 5192 E Calle Almendra
Hereford Az 85615

F 66

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Cochise County Planning,

Many in our neighborhood were unaware that a business was being established in our zoned "no business" residential neighborhood. We were never notified by either Eldercare for Life, Incorporated or by Cochise County before they began operations.

All properties in this neighborhood are subject to a "NO BUSINESS" covenant. We understand that the property owners, Monica Vandivort and Nathan Yarborough are in a business agreement with Eldercare for Life, Incorporated. Eldercare for Life, Incorporated is a business. They and the property owners are in violation of the "no business" covenant. Since we were not notified by the county before this operation began, we assume that the county was also unaware. If the Cochise County was aware, then Cochise County is also in violation.

We do not want a business operation here at all. We chose to live in the country for the peace and quiet of the country, not to be overrun by non-residents operating businesses!

We do not support the September 10, 2010 request by Eldercare for Life, Incorporated for use of easement property when a county road is more accessible. Approval of such a request would indicate to us that the county is not acting in the best interest of its residents. For approval of the business in our residential neighborhood in the first place makes us wonder what other encroachments Cochise County might allow against us.

Furthermore, we expect a full explanation from Cochise County regarding this matter.

Most Sincerely,

Name(s): Bernard L Morrison

Address: 6719 S. Calle de la Mango

F
67

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Mr. Dennis,

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Please, do not grant Eldercare's request. We expect a written response from Cochise County regarding this issue,

Very Sincerely,

Name(s) Jon & Elizabeth Woodard

Address 6569 Calle De La Manzo Hereford Az 85615

F

68

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Cochise County Planning,

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Furthermore, we expect a full explanation from Cochise County regarding this matter.

Most Sincerely,

Name(s): Vicky Puckett

Address: 10506 E Hwy 92 Hereford, Az. 85615

F 69

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Cochise County Planning,

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Furthermore, we expect a full explanation from Cochise County regarding this matter.

Most Sincerely,

Name(s): Mary Gule

Address: 6916 Calle Sela Naranjo

F

Concerned Hereford Neighbors

September 18, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

Dear Cochise County Planning,

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Furthermore, we expect a full explanation from Cochise County regarding this matter.

Most Sincerely,

Name(s): Angelo [illegible], Jenny Koran (Veedez)

Address: 5691 E Bramwell Hereford AZ 85615

F 71

Chester & Mary Bridget Lemanski
309 Massachusetts Road
Browns Mills, NJ 08015
Email: lemanskibirds7@comcast.net
(609) 893-7366

and

6524 Calle de la Mango
Hereford, AZ 85615

Cochise County Planning Department
ATTN: Mr. Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603
Dear Sir:

We recently became aware of the issues involving the Windmill Ranch (Eldercare For Life, Inc.) upon receipt of their letter, dated September 10th, 2010. Since receipt of that letter we have been in contact with our neighbors on Calle de la Mango and tributary lanes. We have also conducted internet research regarding this facility and its parent corporation.

First, let us begin with an essential truth. Prior to making our decision to purchase our retirement home in Arizona we looked in several counties which we thought suitable. I (Chester Lemanski) had a recurring requirement to visit Fort Huachuca on US Army business prior to retirement. During those trips I did neighborhood research and determined that the Garden Vista area was a very low crime, low traffic area, since it was essentially accessed by a single main road without outlets to the north. These circumstances contributed to our decision to buy our home here.

During the process of purchasing our residence, we learned of the original deed covenants which apply to all properties within this sub-division, specifically, only single family, single story residences. We understand that there are no active homeowners associations acting here. If there were we would not have purchased (personal penchant for freedom). We also understand that the county does not enforce provisions of homeowner associations such as the increased property line setbacks.

All the foregoing being said, it was a great disappointment to learn of what has gone on with this medical care facility. We are aware of Mr. & Mrs. Sampson's critical problems with what has been done thus far. The impact does not end with the Sampson's, nor does it end with what Eldercare has done thus far.

First, that corporation is apparently in violation of what they agreed to thus far. They are persisting now in increasing the negative impact of their commercial venture at the expense of the residential neighbors.

We have carefully reviewed all information received and researched to date. We have arrived at a conclusion that the following scenario is very likely considering the actions of the Vandivort-Yarborough actors:

1. The actors are intent on increasing the size and scope of the commercial activities in the proximity of our residences. Additional parcels of property are available adjacent to their current holdings and the owners of these parcels, in at least some cases, are hopeful of selling their land to the actors. They have been incrementalizing their project thus far and this behavior can be anticipated to continue.

Our opinion is based in part on the circumstance that the actors' existing facility is too small to be viable in the long term. It costs more per patient to care for a smaller patient population than a larger one since all required care givers, equipment and utilities are spread over a smaller number of customers.

Expansion of the facility would impose an even greater disruption to the tranquil nature of the residential community in its proximity.

2. The actors have refused to accept that the fact that there is a county-maintained road leading to their facility. I coordinated with personnel from Cochise county on a recent trip to Arizona. This was regarding the possibility of opening a driveway to our property on Calle de la Mango since the existing driveway is on Magargee Vista Lane. The lane is too narrow to accommodate any truck over 17 feet in length, complicating our move. I was advised that it is county policy that if a residence has access on two streets, the access driveway MUST be on the road least traveled. Why doesn't that apply in this case?

3. The increase in vehicular traffic due to the improvements of the Kummer-Sampson easement by the actors is hardly at its ultimate high volume. First, as the actors enlarge their commercial enterprise, the traffic caused directly by it will increase. But, more importantly, the probability of an exponential increase in local traffic is predictable based on circumstances.

The residents at the north end of Garden Vista must now travel out to Hereford Road to reach route 92 for travel to commercial and retail areas and the population center of Sierra Vista. Once the actors open up this first conduit to the north through their property and out to route 92 via Calle de la Naranja, and the local residents all become aware of it, it will become the egress of choice from Garden Vista. Calle de la Mango will then become a major through street.

This predictable situation is ironic since the state of Arizona recently spent seven figures to improve the intersection of Hereford Road and route 92, including state of the art traffic control signals and reduced speed limits. Traffic exiting Garden Vista via Labrador Lane/Calle de la Naranja will dump onto route 92 at an unimproved intersection. This

will increase traffic safety issues and negate the full effect of the expensive improvements to the Hereford Road intersection. Has anyone considered this situation?

4. The actions of the actors from the beginning have apparently been secretive and conducted in such a manner as to indicate intent to deceive and obfuscate. This includes their latest letter with a short suspense to an action date.

5. I understand that Dr. Vandivort is a highly respected geriatric physician; however, her executive-level involvement in at least three corporations, all based out of her home address, raises questions about her actual intentions. There are apparently all manner of commercial-zoned properties available in the greater Sierra Vista-Hereford area. There are property taxes levied on all of these parcels, regardless of location; thus, the county will still realize tax revenue regardless where the actors build their facility. Why are they so intent in building it in a designated residential neighborhood where it is not wanted?? The ground zero mosque issue comes to mind!

We have had nothing but the most professional encounters with Cochise County officials in a variety of offices since we purchased our home. We are not criticizing the county for what has occurred to date since it is possible their actions with the county have been misrepresented as well. The internet now clearly reflects that they are using Labrador Lane as the address of record for their facility, not Calle de la Naranja. This circumstance alone strongly indicates that they have no intention of complying with county-mandated restrictions on using Labrador Lane as their primary means of ingress/egress.

Not only do we not approve of granting their request to lift the restrictions on their use of Labrador Lane, but also feel that an investigation might be in order to determine if they have made misrepresentations to the government. Further, there should be sanctions for their disregard of the existing county-mandated restrictions.

We know that this is a lengthy letter; however, we wanted to insure that the extent of our feelings and research are brought to your attention. We are not opposing their intended actions offhandedly by any means. Our retirement dream home is now in jeopardy of being located on a major thoroughfare with an increased traffic safety risk and increased crime.

Sincerely,

Mary Bridget Lemanski

CHESTER S. LEMANSKI, JR.
MARY BRIDGET LEMANSKI

Dennis, Keith

From: KENNETH F SAMPSON [mtnmaster_6@msn.com]
Sent: Thursday, September 23, 2010 1:26 PM
To: Dennis, Keith
Subject: Letter of non approval

Attachments: Our Letter.doc

Our Letter.doc (26 KB)

Keith,

Before I leave for work in about an hour, I want to drop a quick line letting you know I'll be trying to drop by your office in the late morning tomorrow. I am not sure what you mention of the 24th was, but I don't want to miss any unknown suspense regarding the intrusion of Eldercare, Incorporated in our neighborhood.

I'll be bringing a signed copy of the attached letter. I'll also be dropping off a number of other signed letters from our neighbors. Also, I have a petition to drop with you.

I and my neighbor friends will not cease until this matter is settled. I've lost twelve pounds in this recent effort and have been unable to sleep since we received the letter from Eldercare. My wife is having similar reactions. We've had to use separate bedrooms just to get three or four hours of sleep a night. We feel that we are losing what we spent nearly forty years working so hard for.

Ken Sampson

F 75

Dennis, Keith

From: KENNETH F SAMPSON [mtnmaster_6@msn.com]
Sent: Monday, September 20, 2010 12:00 PM
To: Dennis, Keith
Subject: Grading the driveway

Keith,

Would it be possible to get an order for Eldercare, Incorporated to cease grading the easement at least until this is settled. They've graded it twice in the last month. They graded it last Friday evening again.

It is funny that every time they go on the attack to push us over, they cease use of the easement entirely. They did that last year when they were on the attack too. At the same time, I don't understand why Scott Wolfe is so intent on continuing to grade it.

Thank you,

Ken Sampson

To compel a man to subsidize with his taxes the propagation of ideas which he disbelieves and abhors is sinful and tyrannical.
Thomas Jefferson

F 76

Dennis, Keith

From: KENNETH F SAMPSON [mtnmaster_6@msn.com]
Sent: Monday, September 20, 2010 11:46 AM
To: Dennis, Keith
Subject: Re: Mailing Labels

Thanks Keith, and thanks for the call. You could tell I'm getting a bit overwrought with this hanging over our heads again.

We thought it was settled last year only to see this very aggressive outfit attack us again.

Thanks for understanding, and staying with us in our frustration.

Ken Sampson

----- Original Message -----
From: Dennis, Keith
To: KENNETH F SAMPSON
Sent: Monday, September 20, 2010 9:10 AM
Subject: RE: Mailing Labels

We have just over two months, and that is assuming they get in before the 24th deadline. There will property owner letters sent out by the County, and a public hearing on the 10th of November.

Eldercare was required to send those Citizen Review letters out, and to doo so far in advance of any public hearing, which is when the P&Z Commission would make their decision on this matter. Those decisions are appealable to the Board of Supervisors if you or they wind up dissatisfied with the result.

From: KENNETH F SAMPSON [mailto:mtnmaster_6@msn.com]
Sent: Mon 9/20/2010 8:58 AM
To: Dennis, Keith
Subject: Re: Mailing Labels

That is not a reasonable time for us to react. The letter written by Eldercare was only dated the 10th and residents didn't get it until a few days after that. We need more time. I'd hate to lose our property rights to a bunch of strangers taking over my back yard permanently. So would our neighbors.

----- Original Message -----
From: Dennis, Keith <mailto:KDennis@cochise.az.gov>
To: KENNETH F SAMPSON <mailto:mtnmaster_6@msn.com>
Sent: Monday, September 20, 2010 7:13 AM
Subject: RE: Mailing Labels

Ken, if they make the September 24 deadline, the item will be heard by the Commission on

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Dennis, Keith

From: KENNETH F SAMPSON [mtnmaster_6@msn.com]
Sent: Monday, September 20, 2010 10:12 AM
To: Dennis, Keith
Subject: Re: Mailing Labels

Attachments: Petition 2.pdf; Petition 1.pdf

Petition 2.pdf (756 KB) Petition 1.pdf (779 KB)

Thank you.

I spent Saturday going door to door on foot. I visited 19 homes and got 29 signatures and 20 signed letters opposing the takeover of the easement.
Today, I am mailing many others from the list you provided. I am asking people to sign a similar letter to the one I hand carried Saturday.

I'm sure that will take us well past the 24th as some of the addressees are out of state. I've actually been called by a family in New Jersey on this matter.

As you can see, if I visited 20 homes and got 20 letters, 100% of the people here are totally against ANY expansion or takeover of a medical business in our zoned no business neighborhood. (See attachments for petition, the letters will be forthcoming).

It would appear that information is power. Windmill Ranch is praying on the uninformed. I'd hate to accuse the supervisors of the same thing. The county needs to allow the information to get to the people. In fact, they should have actually been the distributors of very complete information as it affects many people. It is obvious that Monica Vandivort with her four other incorporations in our area is WELL connected in the county. It is too bad that the supervisors have no concern for the other tax payers of the county.

In America, we seem to lose a freedom or two every day of our lives. It is bad government that allows such action.

Again, thank you Keith. You seem to be the one county person that cares enough to help.

Ken Sampson

----- Original Message -----
From: Dennis, Keith
To: KENNETH F SAMPSON
Sent: Monday, September 20, 2010 9:21 AM
Subject: RE: Mailing Labels

Ken, I am in a training session right now checking my email on a laptop with a different sort of keyboard. I was trying to say that there ought to be plenty of time for any sort of organizing of public efforts you would care to engage in. The clock doesn't even start until after the deadline, for instance.

F 78

Dennis, Keith

From: KENNETH F SAMPSON [mtnmaster_6@msn.com]
Sent: Friday, September 17, 2010 11:51 PM
To: Dennis, Keith
Subject: Re: Mailing Labels

Keith,

Thank you very much. It appears that my neighbors and I have our work cut out for us over the next few weeks.

When I arrived home from work tonight, I saw that Scott Wolfe had once again plowed through the lane with his blade. I can't understand why a supposed Christian organization continues to break their word. The use of the lane is has again been getting out of control! Again Scott left the gates open. It was dark so I could not see if he bent the posts over again like he bragged about doing the last time he stirred up the dust.

I can't see why he can't at least wait until the county approves or disapproves their recent request.

If it is approved Vickie and I will be selling our home. I'm retired military. Vickie and I lived in nearly twenty homes in twenty-three years. This was designed to be our final home until death. If the lane is opened, we'll have lost that dream. We'll will leave Cochise County in it's own dust.

Thanks again for your help,
Ken Sampson

----- Original Message -----
From: Dennis, Keith
To: mtnmaster_6@msn.com
Sent: Friday, September 17, 2010 1:42 PM
Subject: Mailing Labels

<<SKMBT_C55209091713320[1].pdf>>

Keith Dennis - Senior Planner
Cochise County Community Development
1415 E Melody Lane
Bisbee AZ 85603
Phone (520) 432-9244
Fax (520) 432-9278

Public Programs - Personal Service
www.cochisecounty.com

Kenneth F and Vickie R. Sampson
6348 S. Calle de La Mango
Hereford, Arizona
(520) 803-9135

September 23, 2010

Cochise County Planning Department
ATTN: Keith Dennis
1415 Melody Lane
Bisbee, AZ 85603

COCHISE COUNTY
PLANNING

Dear Mr. Dennis and Supervisors,

Once again, we do not support the request for Eldercare to use Labrador Lane to Calle de La Mango. The single family drive that we pay taxes on is less than 25 feet from our house and is basically part of our back yard. We did not move to the country to have a continuous string of shift workers, logistical services, inspectors, doctors, delivery truck drivers, visitors, obtrusive emergency vehicles and the like continually patrolloing our back yard creating noise and dust as well as danger to our grandchildren at all hours. We do not enjoy having scores of strangers constantly stare into our back yard and into our lives at all. This highly intrusive Eldercare business needs to utilize the shorter and county maintained Naranja route as directed by Cochise County last year.

In 1997, we purchased the property on which to build our home because it was near the end of an essentially dead-end road in the country, and because there was a "no business" covenant in the entire neighborhood. We wanted serenity after living in 18 different homes during my military service to our country. This was to be our final and peaceful home for the rest of our lives.

During the first ten years here, our pride of home ownership showed in the time we spent trimming, planting and landscaping. We erected masonry terraces, Koi ponds, a pergola, a gazebo and even a bird sanctuary. We took pride in our back yard grilling, dining and hot tub area. We enjoyed many gatherings and celebrations in the quiet of the beautiful area we had created.

All of that came to a halt as we experienced the city-like intrusion of cars and large trucks on what use to just be a friendly neighbor's driveway passing our back yard. If you look at our property now, you'll see the decay of all our efforts as we have had our joy stripped away by unwanted strangers. We no longer enjoy or even care to maintain what we had worked so hard to design and build. No more back yard weddings or

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celebrations. We have not had a gathering at our home at all now in over two years due to the loss of privacy and quiet, not to mention the dust and the danger to our and to our guests children.

Even after Eldercare for Life was directed by the county to cease use of the old driveway last year, they failed to comply. After our installing the gates at the recommendation of the planning office, Eldercare continues to abuse us by driving on the lane, grading it, and by their outright wanton destruction of our expensive gates.

As for Eldercare's recent claim that they "need" our property for emergency services access, the fire station on Yaqui on two occasions has informed us that since S. Edward now connects with Fresa, they are using the county maintained and ½ mile shorter route of Naranja to access Windmill Ranch. The Yaqui Fire Station even offered to place fire department locks on our gates to help us curb the misuse.

For county planning to permit a medical facility to become established in our neighborhood in the first place when specific covenants are in place to prevent business operations is certainly not a credit to Cochise County. This was once a residential area for families to enjoy the peace and quiet of the country. Now it appears that it is a place for a commercial medical business that draws strangers and excess traffic from cars to delivery trucks at all hours of the day and night. Eldercare chose to place their business in the country and Cochise County broke the rules at our expense to allow them to do so. If Eldercare for Life, Incorporated is allowed to remain at all, they must be forced to use the county road system and leave residential homeowners alone.

We are not alone in our disgust with both Eldercare for Life, Incorporated and with Cochise County Planning. We have visited many homes in our neighborhood. Everyone we visited was eager to sign letters and a petition in an effort to halt the growth of a city-like business in our once placid country neighborhood. The sentiments are overwhelmingly against the counties actions of permitting the business in our zoned "no business" neighborhood. Some have sited the fact that there is now a draw for criminal activity as medical facilities dispense drugs and drugs draw violent criminals. People are sick and tired of the excessive and non-resident traffic on our streets. They are incensed that the county would act as they have by approving such an establishment without first canvassing them on the matter.

The Eldercare, Incorporated attacks never cease. This entire easement issue was handled last year with the outcome being that Eldercare for Life, Incorporated was directed by the county to cease use of the driveway. We spent much time and money fighting it then and we now find ourselves spending even a greater amount of time (including vacation time from work) and money in a recurrence of the same fight.

Finally, if the use of our property by eldercare is approved, we will be selling the home we designed to be our final home. We will be leaving Cochise County in disgust. We are certain that the sale will be a problem and we will suffer a huge financial loss. After all, who would buy a home this far from town when they can get more privacy, less traffic less noise and can avoid a constant dusting by living in town?

Your favorable consideration of this matter is most urgently requested,

Earnestly,

Kenneth F. and Vickie R. Sampson

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COUNTY
OCT 04 2010
PLANNING

September 30, 2010

To whom it may concern,

This letter comes to you in response to an upcoming review of Labrador Lane in Hereford, Arizona. Being a nearby resident of Windmill Ranch, an assisted care facility in my understanding, it seems appropriate that I submit a few comments on behalf of myself and others in the neighborhood.

It should be noted first that we have been in the area for over twelve years and that the original access to the property that has become Windmill Ranch was from Calle De La Mango, an estimated mere distance of three hundred feet from the county maintained , hard-surfaced road. However, somehow and without notice or a comment period to neighboring residents, travel to this property was diverted to Calle De La Naranja Street, resulting in nearly a half mile of negotiating a sporadically maintained county dirt road. Obviously, that has changed a once dead –end road into a much more hazardous thoroughfare for the numerous residents, including numerous children.

We also have a question as to whether it is appropriate to have a perceived commercial venture in the form of a multi-family residence in the area of a single-family location. I am reasonably certain that the county zoning authorities would not allow this to happen outside set guidelines, but we must reaffirm that this arrangement was not submitted to local residents prior to its acceptance for comments and opinions. We do not deny anyone the right to a business or means of income or the county a new source of tax revenue. However, it should be fulfilled only after the completion of due process. According to several residents along Calle Naranja Street, they knew nothing of this during the planning and approval stages.

In a concluding summary of these listed concerns, it should be clearly known that we are in agreement that the access to the Windmill Ranch property on Labrador

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Lane should be returned by way of its original easement from Calle De La Mango. It might also be revisited as to whether a multi-family and/or commercial housing project is appropriate for the existing single-family residential area in question. We are certain that you are fully aware of the real impact of these changes brought to the neighboring area—increased traffic, excessive speed of traffic, increased dust, additional hazards to resident pedestrians, and accelerated damage to the dirt road. We do want you to realize, too, that these problems did not exist prior to the rerouted access onto Calle De La Naranja. They certainly were not a factor prior to the change from a family residence to an assisted care facility. Return as much of this unsupported action to the original configuration as is feasible.

Thank you for your time and careful understanding in this matter.

Respectfully,

David Dicky

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We object to the removal of the conditions set by the Planning and Zoning commission last year. We cite the same reasons as before: Increased traffic causing a lack of privacy, exposure to unknown people, disturbing our peace and quiet plus setting up a potential for increase of crime in our area.

Both the staff and Nathan Yarbough have not complied with the conditions. We have witness numerous times of service vehicles, medial delivery personnel, visitors and staff members using the East end of Labrador Lane. Many of these incidents but not all were reported by phone to the Planning and Zoning Office.

Labrador Lane is not a county maintained road. It is not a public road. It is an easement with rights of ingress and egress by the property owners needing to do so. Due to the Orange sign for Rural Addressing, some people have assumed it is a public road. In order to protect our property and privacy, gates were installed across the lane to indicate that this is private property. This was also to slow down the delivery drivers who were driving fast enough to raise dust. Signs indicating that this is a private driveway have been ignored.

There is access via Calle de la Naranja. Naranja is a county maintain road with access to the Windmill ranch facility without disturbing any other residents of Labrador Lane. We asked some of the users of Labrador Lane why they were coming this route instead of going via Naranja. The Lowes delivery man, some visitors and others said because the staff at the facility had told them to come this way. They were also told to leave the gates open. We feel that the Planning and Zoning commission set some reasonable conditions on the owners of the Windmill Ranch Facility. These conditions have not been met.

We had a survey done of our property to determine exactly where the easement lay. The survey was done by the Alta Land Survey a licensed survey company in Cochise County. The survey has been recorded at the county recorder office. Maps that had came with our deed show three easements along the south side of our property lined up next to each other. The easements per the survey show that the easements are not next to each other. The easements are over top of each other but do not line up. The assumption had been made that there was 36 feet available for ingress and egress. This is not true.

The 12 foot easement: (Document No. # 9306-16266) on the south side of our property pertains only to us. It has been abandoned by merger. We bought the first lot in 1993 closing was done Oct 1993 after which we purchased the lot to the west in Dec 1993. By definition an easement is granting another access to another to get from point A to point B.

The two remaining easements are (Document No. # 8512-25341) a 24 foot easement and (Document No. #9402-03836) a 12 foot easement layered over the top of each other in a skewed manner. The result of the exact layout of the easements results in less than 24 feet available for ingress and egress. That would pose no problem or concern for a single house dwelling but for the use of a business it would cause concerns. Again, I will repeat there is room at the west end of Labrador Lane. There is undeveloped property that could be obtain by the facility should they need to do so.

Kummer Letter
Nov 1 2010 F

The driveway, that is Labrador Lane, has for the past 15 years of the 17 years that we have owned this property, been two ruts going back to an old ranch house. Thru the years John Fritz has lived there on and off. He has rented it out at times. He had put up a gate with a lock as he had been bothered by people coming to look see what was there. Since purchasing the property Nathan and Monica have decided to make changes. Nathan put down gravel and widened the lane. These changes have now encouraged others to believe that this is a road. Ignorance on their part, but an assumption based on the Orange Sign saying Labrador Lane plus an ability to drive or walk from Calle de la Mango to Calle de la Naranja. When asked why they were driving on this they claimed they had a right to do so.

We ask that the 24 foot easement (document No. 8512-25341) be amended to remove the ingress and egress conditions of the easement for the 385.9 feet abutting parcels 104-02-006Z and 104-02-029C. We also ask that the lane be renamed. This would help avoid confusion due to the part of Labrador Lane that is across Calle de la Mango but not aligned with the Labrador Lane in question. Please refer to the accompanying diagram for additional details. This would solve the issue regarding which end of Labrador Lane is to be used. This would still allow access by all other parcels abutting this lane.

The other six property owners have access to their property via the west end of Labrador Lane. The access from the east end between the Sampson and us (Kummer) is a want not a necessity. Of the six properties that are abutted to the access, three have already established utilities and ingress/egress by other routes. Of the remaining three parcels, two have access to their properties by way of easement on their south and north sides. The remaining property has access via easement to Calle de la Naranja and Calle de la Rosa.

The property owners of parcel #104-02-006F have elected to engage in the business running a home resident care facility. They have abused the privilege of the right to cross our property altering the existing driveway. They have a right to cross our property but they do not have the right to deny us our rights to use our property. They have altered our property without our approval. We are now alerted as to our rights and obligations. We will be on guard to protect our property.

SPECIAL USE: Docket SU-09-08A (Eldercare for Life)

_____ **YES**, I SUPPORT THIS REQUEST
Please state your reasons: _____

✓ **NO**, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons: It is my opinion that this facility belongs in a commercial area. This is a neighborhood with children that play outside. The high volume of traffic that is required to support this facility makes it unsafe for my child and disrupts the tranquility that used to be ours. Thank you for taking into consideration my concerns.

(Attach additional sheets, if necessary)

PRINT NAME(S): Linda Jaime Barnett

SIGNATURE(S): Linda Jaime Barnett

YOUR TAX PARCEL NUMBER: 104-02-029B (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 6452 S. Calle de la Mango, Hereford, AZ 85615

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on November 2, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the pubic hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603
Email: kdennis@cochise.az.gov
Fax: (520) 432-9278

COCHISE COUNTY
OCT 2 3 2010
PLANNING

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October 2010

To Keith Dennis,

My name is Ross Anderson and I am a long time friend of Kunie and Gerald Kummer. Over the course of the last six months, I have helped out them with many projects on their property. During this time I have seen many cars, trucks and commercial vehicles travel up and down Labrador Lane. On several occasions the people have driven in and out using the gate to access the drive and have not secured the gates when completing their entrance or exit to the property of which is used to drive back to the residence behind the Kummer property. Speed has been a major concern as there are children in the immediate area that could easily be hurt by such traffic not using caution.

Ross Anderson

call ch 480 478-5278

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To: Cochise County Planning and Zoning Commission

From: Sharon L. Dingwall

Re: Access to Windmill Ranch Assisted Living Facility

I was asked to describe my first visit to Windmill Ranch regarding driving access to the facility. Sometime in early August, my husband and I called Windmill Ranch to see if our friend Ruth Dupes, a new resident, could receive visitors. I was assured by a staff member that we were welcome and I asked for driving directions to the ranch. I was given the following directions: Highway 92 south to Hereford Rd., then left on Hereford to Calle de la Mango and left on Labrador Lane. We followed the directions to the turn onto Labrador Lane where we encountered two gates. I had been told that we were to open the gates to get access and that we could leave them open. When my husband got out to open the gates, we were approached by the owner or the property on the left side of Labrador Lane that we were not allowed to come that way. He said that there was some kind of proceedings pending and that he had grandchildren who played on his property that would be endangered if cars were allowed to come that way. I asked him to give us directions for the other way in, but he said that we could come that way on that day. He allowed us to drive through and then closed the gates behind us.

After visiting our friend Ruth, we left by the other way, which takes you onto Calle de la Naranja, then Calle de la Fresca onto Edward V, which then leads back to Hereford Rd. There is a problem with this route, demonstrated that day and on 5 other round-trips in that Calle de la Naranja is unimproved and extremely rough. Although there are several houses along that street, it is a wreck and only allowed me to drive between 5 and 8 mph. in order to avoid damage to my car.

I hope that this information is of help to the Commission in dealing with this matter.

Sharon L. Dingwall

Sharon L. Dingwall

2368 Golf Links Rd.

Sierra Vista, AZ 85635

(520) 458-6527 email- sl_dingwall@cox.net

F

October 31, 2010

To whom it may concern:

On Sunday October 3rd, while visiting the Kunie and Gerald Kummer for dinner and cards I witnessed two automobiles traveled down Labrador Lane going west from Calle de la Mango. They left both gates open disregarding the posted notice to close the gates. Should additional information be needed feel free to contact me at 520 803-6710.

Stan Costales
9397 Nevada Lane

Hereford, AZ 85615

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November 1, 2010

To Whom It May Concern,

I called Windmill Ranch for directions to visit Ruth Dupes. I was told to take Mango to Labrador Lane to the Ranch. I later found out that was a private Road.

Shirley Elliston

Shirley Elliston

CELL 520 508-0628

F91

FRY FIRE

"YOUR 911 LIFELINE"

4817 Apache Sierra Vista, AZ 85635

July 27, 2010

Scott Wolfe
Windmill Ranch Assisted Living
5605 Labrador Lane
Hereford, AZ. 85615

The Fry Fire District is concerned about vehicle access to the Windmill Ranch Assisted Living facility located at 5605 Labrador Lane. The primary route, which is west on Labrador Lane from Calle De La Mango, has been obstructed with the installation of two gates. Although these gates are unlocked, emergency response personnel will be delayed while traveling on the easement. The secondary access route is to travel north down Calle De La Naranja from Calle De La Fresa. Due to storm water drainage, this route has the potential of being impassable during storm conditions. The road shows signs of previous washouts and has loose sand conditions that may result in emergency vehicles becoming stuck.

The Fry Fire District relies on the mapping system provided by Cochise County. The county maps do not show that Calle De La Naranja is a viable access route to the facility. Furthermore, signage on the gates blocking Labrador Lane reads no trespassing. The combination of these two conditions could severely delay the fire district response during an emergency. We are also concerned about a trench that been dug across the road. It appears emergency vehicles could navigate the trench during dry conditions but may not be able to under rainwater drainage and future washouts.

Sincerely,

Michael McKearney

Mike McKearney
Fire Marshal, Fry Fire District

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ARIZONA AMBULANCE TRANSPORT
P.O. Box 1689 • Sierra Vista, Arizona 85636
(520) 459-4040 Office
(520) 459-6060 Fax
www.azambulance.com

August 3, 2010

Re: Windmill Ranch Assisted Living Home
5605 E. Labrador Lane
Hereford, AZ 85615

To Whom It May Concern:

It has been brought to our attention that the easement to Windmill Ranch Assisted Living Facility located at 5605 Labrador Lane has become obstructed. Arizona Ambulance of Douglas services the community by providing EMS services as well as para-transit services. The primary route, west on Labrador Lane from Called De La Mango, has been obstructed with the installation of two gates and no trespassing signs. Furthermore, a trench has been dug across the road. Although the gates are unlocked personnel would have to open the gates delaying the safe transport of a patient home. The trench dug around the road could become impassable during storm conditions as well as causing future washouts.

The secondary access route is to travel north down Calle De La Naranja from Calle De La Fresa. This route has potential to be impassable during storm conditions. Arizona Ambulance of Douglas relies on the Cochise County mapping system for navigation. The county maps do not show that Calle De La Naranja is a viable access route to the facility. This route shows signs of previous washouts and has loose sand that may result in vehicles becoming stuck. The safety of our patients is of our utmost concern.

Sincerely,

Beth Mullins

Beth Mullins
Administrative Services Manager
Arizona Ambulance of Douglas
4266 E. Industry Dr. Suite 4
Sierra Vista, AZ 85635

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Southern Arizona Funeral Services LLC dba
Jensen's Sierra Vista Mortuary
Foothills Memorial Crematory
5515 S. Hwy 92
Sierra Vista, Arizona 85650
520-378-4895 ~ Fax 520-378-4896
E-Mail ~ jsvm@cox.net

In regards to the road leading to Windmill Ranch, we here at Jensen's Mortuary are concerned as to the primitive road that is currently necessary to access the facility. Being a dirt road, this route is difficult to transverse and hard on the vehicles. There is also the concern that in heavy rains the road may become unusable. If this route were to be paved it would save a great deal of difficulty for our staff

Thank You

Greg Pfaff
Funeral Director

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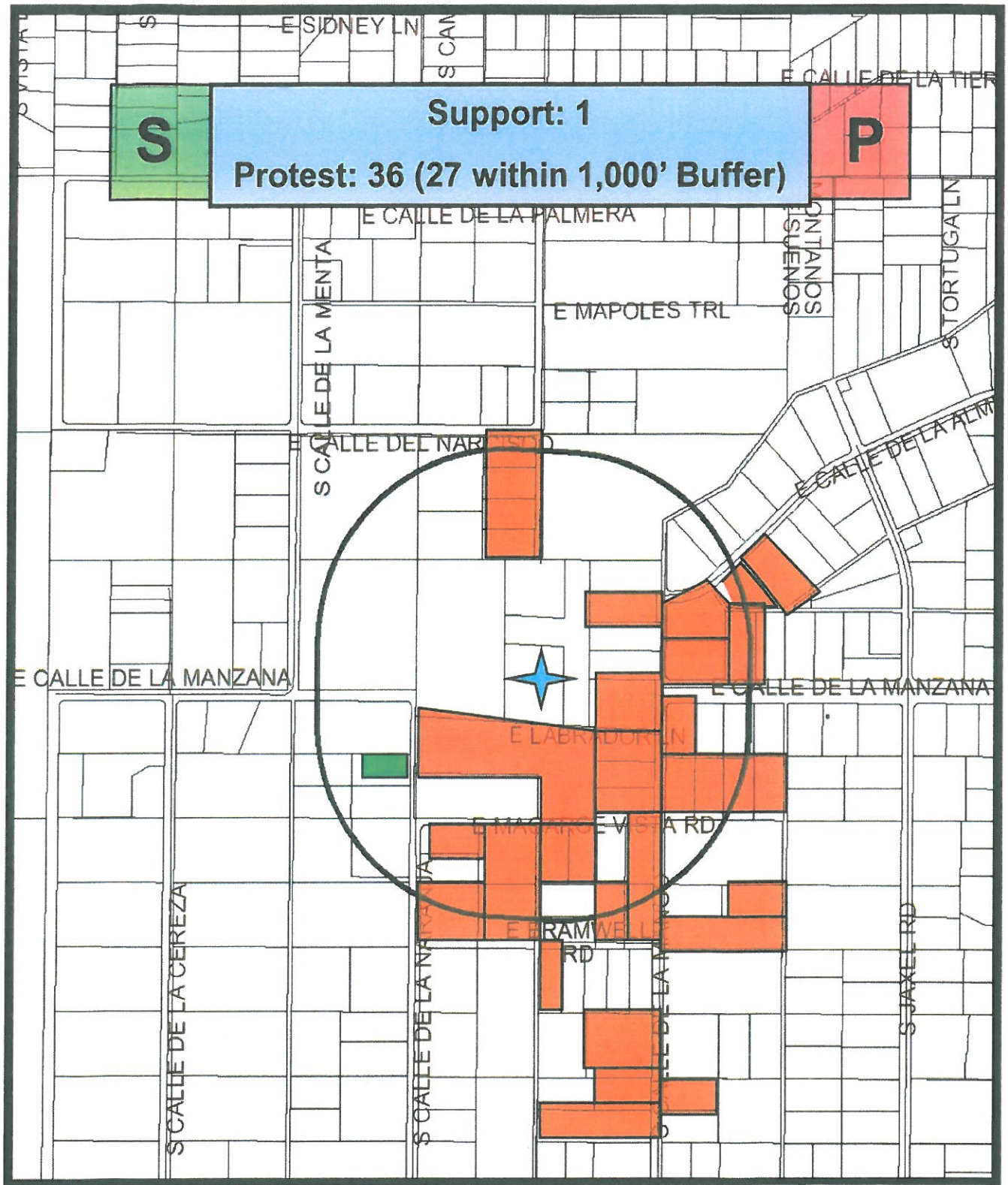

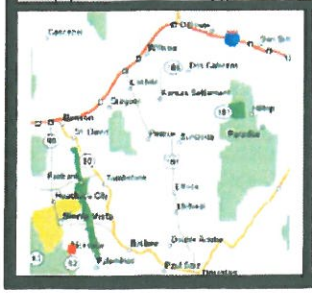

SU-09-08A
Support/Protest
1,000 Foot Buffer

This map is a product of the Cochise County GIS

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COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
Fax 432-9278

Carlos De La Torre, P.E., Director

MEMORANDUM

TO: Cochise County Board of Supervisors

FROM: Keith Dennis, Senior Planner

For: James E. Vlahovich, Planning Director

SUBJECT: Docket SU-09-08A (Elder Care for Life Appeal)

DATE: December 22, 2010, for the January 4, 2011 Meeting

SU-09-08 AND SU-09-08A: PLANNING AND ZONING COMMISSION MEETING MINUTES

For the Board's benefit, below are the Planning Commission meeting minutes pertaining to the Elder Care for Life Docket.

March 11, 2009

Docket SU-09-08: The Applicant requests a Special Use Permit to allow a Residential Care Institution on a 3-acre parcel in a TR-36 District, pursuant to Section 707.06 of the Zoning Regulations. The Applicant intends to add two additional residents in an existing, permitted Residential Care Home. No expansion to the existing home is proposed. The subject parcel (Parcel # 104-02-006F) is located at 5605 E Labrador Lane in Hereford, AZ.

Planner Keith Dennis presented a Power Point presentation explaining the proposal. He presented photos and maps of the area, and explained the zoning of the surrounding properties. Mr. Dennis explained there is a deed restriction and asked the County Attorney to explain this to the Commission.

Adam Ambrose, County Attorney's Office, stated that it is not the responsibility of the county to enforce a private agreement. However, if other residents object on the grounds of the covenant, then the policies are to be considered by the Commission.

Mr. Dennis explained the access and traffic concerns that have risen by the residents in the area. He further explained the factors in favor, and the factors against. He stated staff had received no letters in support and one letter in opposition. However the property owner that had opposed indicated he would conditionally support the request if the traffic accesses the property from the Calle De La Naranja entrance.

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Monica Vandivort stated she is a physician that takes care of elderly patients in Cochise County. She further stated the facility and how the facility is operated. She stated it is a non profit facility, and explained it is funded by the State.

Vice Chair Basnar opened the meeting to the public.

Connie Kumar explained she lives next to the proposal; she stated she is concerned about the traffic on the road. She further stated that they would like to have Calle de le Mango closed to control the traffic.

Crystal Trusty stated she lives near the care center and stated she supports using the other road as the main entrance.

Nancy Dowd stated she is the manager of Windmill Ranch and explained that she had spoke to Waste Management and they would use the back way to the facility.

Vice-Chair Basnar closed the meeting to the public.

Commissioner Harguess asked if the roads will be used by future residents.

Mr. Dennis explained the Calle De La Mango and Calle De Le Naranja are County maintained road and can be used by anyone. Labrador Lane is the only private easement.

Mrs. Vandivort stated they are trying to mitigate the impacts from the daily traffic.

Mr. Dennis stated that staff recommends conditional approval of the request. He further explained the details of the conditions stated in the staff report.

Motion: Approve SU-09-08 with conditions 1 through 7 and modifications 1 through 4,
Action: Approve,
Moved by John Wendell, **Seconded by** Rusty Harguess.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 7).
Yes: Jim Martzke, Rusty Harguess, Lee Basnar, Al Haralson, John Wendell, Cruz Silva, Pat Edie.

November 10, 2010

Commissioner Lynch recused himself from the docket as he owns property in the area. Mr. Lynch removed himself from the bench.

Docket SU-09-08A: Planner Keith Dennis stated the Applicant, Elder Care for Life, currently operates a Residential Care Institution on the property, as allowed by Special Use pursuant to Section 707.06 of the Zoning Regulations. The Planning and Zoning Commission authorized the Special Use in March of 2009, with approval conditions

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requiring the Applicant to direct associated traffic to use Calle de Naranja, a County-maintained road west of the property. Specifically, the condition required the Applicant to:

A. Require all traffic accessing the site to use the Calle de Naranja route;

B. Post a sign at the property line along Labrador Lane, instructing visitors to use the Calle de Naranja route; and

C. Inform employees, delivery drivers, and residents' family members in writing to access the site through the Calle de Naranja route.

He further stated the Applicant now seeks a Special Use Modification, to have these approval conditions removed from the Special Use and allow traffic to access Calle de Mango, a County-maintained road east of the property.

Mr. Dennis presented maps and photos of the subject parcel (Parcel # 104-02-006F) which is located at 5605 E Labrador Lane in Hereford, AZ. He presented factors in favor And against, stating staff received letters from Emergency services and 1 neighbor in support., and 32 letters in opposition.

Commissioner Bemis asked what causes the delay using Calle De La Naranja.

Mike McKearney from the Fry Fire District, stated the delay using Calle de Le Naranja is that only part of the road is County-maintained, and so the other part is not on their maps, causing a delay.

Commissioner Brofer asked staff if emergency traffic can use Labrador Lane.

Karen Lamberton explained the Calle De La Naranja is considered by the County as a primitive road, therefore does not appear on County maps as a maintained road.

Scott Wolfe, Board of Directors for Elder Care for Life, stated he was the one who had been maintaining Labrador Lane, and has seen the problems related to access on Labrador Lane. Mr. Wolfe stated they are requesting conditions to use Calle De La Naranja only.

Chair Basnar opened the meeting the public.

Duane Bennett stated his mother is a resident of Windmill Ranch, and he stated he is concerned about her well being since emergency services can not access the property except from one access point.

Robert Statchel, Attorney for the applicant, stated the easement was created in 1985 in the wrong place, however it was corrected in 19904. He further stated this is a public safety issue, however not all of the issue. The residents have friends and family that need to be able to visit for the well being of the residents.

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Kenneth Sampson stated the easement is a private easement and should not be used by the visitors to the Residential care home.

Chester Lemanski stated they purchased their property last year and feels the owners should improve Calle De La Naranja and not use Calle De La Mango.

Gerry Kummer stated he put up the gates because the easement is a private easement and should not be used by anyone except the residents on Labrador lane.

Lisa Carroll stated the easement doesn't go past the Kummer's property; therefore there is no need for anyone to pass on that road.

Monica Vandivort stated she is on the Board of Director's for Elder Care. She Further addressed residents' concerns.

Robert Statchel stated it would be easier for the emergency services, and visitors to use Calle De La Mango due to flooding issues, and safety issues.

Commissioner Brauchla asked how wide the easement is.

Mr. Statchel stated the easement is 24' wide.

Chair Basnar closed the meeting to the public.

Mr. Dennis stated staff recommends approval of the modification to the Special Use request.

Commissioner Harguess asked County Attorney Britt Hansen about the dispute on the easement.

Mr. Hansen stated the dispute has no effect on the Commission.

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Commissioner Basnar stated he feels the original conditions should stay in place.

Commissioners Martzke, Harguess, Brofer and Bemis concurred.

Chair Basnar asked for a motion.

Motion: motion to approve the modification to SU-09-08A, **Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Rusty Harguess.
Vote: Motion failed (**summary:** Yes = 0, No = 7, Abstain = 0, Recused = 1).
No: Jim Martzke, Duane Brofer, Rusty Harguess, Lee Basnar, Pat Edie, Ron Bemis, Gary Brauchla.

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COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
Fax 432-9278

Judy Anderson, Director

Check No. 1305
$300.00 paid Nov 24, 2010
(KA)

SPECIAL USE APPLICATION FOR APPEAL

NAME OF APPELLANT: Eldercare for Life

ADDRESS: P.O. Box 429 6164 S. Hwy 92 Hereford AZ 85615

PHONE NUMBER: 520-803-1234 520-266-1417 520-266-4178

NUMBER OF DOCKET APPEALED: SU-09-084.

DATE OF COMMISSION DECISION: November 10, 2010

DATE OF APPEAL SUBMITTAL: 11-23-10 FEE PAID: $300.00

In addition to the $300 fee, the following information shall be provided before an appeal can be accepted. If more room is needed please attach additional pages.

1. Description of the decision being appealed. An appellant can appeal the Commission's decision for approval or disapproval or any conditions stipulated as part of docket approval.

The Cochise County Planning and Zoning Commission voted unanimously (7-0) to deny our request to modify our approved Special Use conditions. These conditions were placed in March 2009 and require Windmill Ranch Assisted Living Home to direct all traffic through the Calle de la Naranja route. We appeal the decision of this commission.

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2. A complete statement of all reasons why the appellant believes that the decision, or any part of the decision was erroneous, arbitrary, capricious, or any abuse of discretion.

We appeal the decision to deny our request of removal of traffic restrictions due to the following:

1) The Commission's decision contradicts the County's own policy regarding respect of legal easements and assumes they have jurisdiction over this when they do not.

2) Eldercare is unable to meet other conditions placed in the Road Maintenance Agreement which says we must maintain 20 ft width of the roadway—due to the fencing, trees, ditches, humps and other obstructions being placed within the easement by the opposing neighbors. These acts are being done due to the county's empowerment of the opposition and lack of reprimand for doing so. CONTINUED

(Attachment D) page 2

3. Written presentation of additional testimony & evidence. A full explanation of the additional testimony & evidence that will be submitted with explanation of why this was not presented to the Planning Commission.

The points brought up by the Commission occurred after the floor was closed to the public and our additional facts could not be presented.

SIGNATURE Monica Vandent for Eldercare Inc LLC

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2

Continued from section 2:

3) The Commission failed to "make reasonable accommodation" to allow the residents of Windmill Ranch usual access to their home. The Residential Care Home is an allowed use in residential zoning. Therefore, the Commission has discriminated against older, disabled persons by not following the Americans with Disabilities Act and the Older Americans Act. The restrictions placed would never have been given to a residence housing a family of eight people. The Commission failed to advocate for fairness to the disabled in living in a community setting.
4) Safety issues are real. For the tree weeks prior to the day of the Commission meeting, the eastern Calle de la Mango easement entrance was totally obstructed. The narrow passageway now does not meet the 20 foot requirement. Rapid response of emergency vehicles is being hindered by both the narrowing of this entrance and the delayed passage of the longer, unimproved Calle de la Naranja route.
5) The original eastern Calle de la mango entrance also serves as the legal access for parcels adjacent to Windmill Ranch. We are blamed for any traffic utilizing this legal easement. It is not right to block the easement and prevent other parcels from use of their own deeded easement.
6) The Commission was given erroneous information by the opponents about the status of the legal easement.
7) The Commission was given erroneous information by the opponents about the volume of traffic generated by Windmill Ranch and the Commission failed to consult their own Transportation Planners report proving this. (Attachment C)
8) The stress of the neighbor's in opposition is heightened because these neighbors feel they must patrol and restrict an easement's use in a self-appointed fashion. It would greatly reduce the stress of these opponents if the Commission had removed the restrictions and the concomitant unrealistic expectations of the neighbors.
9) The Commission stated that they did not need to change the conditions because "the applicant had originally agreed to them." The Applicant did initially prepare an Appeal in March 2009 to request review of the conditions. However, the Planning and Zoning staff told us that we should try the conditions and come back at a later date if they did not work and ask for a "modification." Item 7 on page 2 of the letter dated March 12, 2009 from Planning & Zoning (Attachment A) and our Acceptance of Conditions form (Attachment B) says:

"Any further changes to the approved Special Use Modification shall be subject to review by the Planning Department and may

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require additional modification and approval by the Planning and Zoning Commission."

This indicates that changes can be sought and would be considered.

10) The Commission was not aware that the conditions requiring all traffic accessing the site to use the Calle de la Naranja route –did not include all traffic. On page 3, 3rd paragraph of the Planning & Zoning communication quoted above says:

"Please note that condition #3 is intended to apply to employees, service providers and guests of the home, and not to emergency service providers who will continue to take the shortest route to your facility."

It does not say all traffic and it does not restrict the residents of the home from using their own easement/ legal access per this clarification.

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I (or) we, Nathan Yarbrough, owner of the Assisted Living Home (Windmill Ranch) located at 5605 E. Labrador Ln, in Hereford, Az 85615, agree to maintain Easement in good driving condition from my driveway to Calle De Naranja + Calle De la Mango as needed for the duration of the said facility.

I (or) we acknowledge that the Cochise County Highway and Floodplain Department does not and will not maintain the above mentioned non-maintained road.

I (or) we certify that I (or) we have the legal authority to use the proposed access which connects the subject parcel to a publicly maintained road for the above-mentioned proposed use. Said legal access is not less than 20 feet wide throughout its entire length and adjoins the site for a minimum distance of 20 feet.

Nathan Yarbrough — 20 Apr 09

Signature — Date

Revised 1/9/07

K

Action Item #: 8.

Regular Board of Supervisors Meeting **Health**

Date: 01/04/2011

County Nutrition Services - NEW IGA

Submitted By: Jennifer Steiger
Health

Department: Health

Presentation:	PowerPoint	**Recommendation:**	Approve
Document Signatures:	BOS Signature NOT Required	**# of ORIGINALS Submitted for Signature:**	0
NAME of PRESENTER:	Vaira Harik	**TITLE of PRESENTER:**	Health Director
Mandated Function?:	Not Mandated	**Source of Mandate or Basis for Support?:**	Arizona Department Of Health Services

REMINDER:

Information

Agenda Item Text:

Approve the new IGA# HG150048, County Nutrition Services, between the Arizona Dept of Health Services (ADHS) and the Cochise County Health Department, in the amount of $187,500, for the period of 10/1/2010 to 9/30/2011.

Background:

Between 1974 and 2008 the ADHS funded Community Nutrition Programs at the county-level via local health departments to provide nutritional information to school-aged children in county schools. The Cochise County Health Department was a grantee during this period. In 2008, due to state budget difficulties, this program was discontinued.

This new grant opportunity is re-start these services, with a renewed focus on nutrition, physical activity, and obesity prevention, using funds from the WIC program as "seed money" to allow the county health departments to re-initiate services and to facilitate their application for federal funds to continue the work under the Supplemental Nutrition Assistance Program/Nutrition Education program (SNAP-Ed) (formerly known as the Food Stamp program).

As before, the focus of program services will be to conduct nutrition education services county-wide in pre-schools and schools in which 50% or more of the students qualify for free or reduced-price school breakfast or lunch.

Department's Next Steps (if approved):

Your approvals are respectfully requested. The Health Department will begin implementation of this program as laid out in the Scope of Work if approved by the Board of Supervisors.

Impact of NOT Approving/Alternatives:

Childhood obesity, lack of physical activity, and poor nutritional knowledge (children and parents) is a growing problem nationwide and in Cochise County. This program allows us the opportunity to intervene at an early age, when habits are being developed, and allows us the opportunity to apply for continued funding from the federal government to continue the program sustainably into the future.

Not approving this agreement would result in the Health Department's inability to re-instate its suspended community nutrition activities and would be a missed opportunity to leverage state and federal funding to continue these services in Cochise County.

To BOS Staff: Document Disposition/Follow-Up:

BOS signature is not required. A fully executed original will be sent to the Clerk of the Board for filing purposes.

Fiscal Impact

Fiscal Year:	2010-2011
One-time Fixed Costs? ($$$):	0
Ongoing Costs? ($$$):	0
County Match Required? ($$$):	0
A-87 Overhead Amt? (Co. Cost Allocation $$$):	12,913
Source of Funding?:	ADHS

Fiscal Impact & Funding Sources (if known):

The FTF grant is a cost-reimbursement grant. The net county subsidy for this grant is $12,867 calculated as follows:

Adjusted county budgeted salaries and EREs: $88,752

A-87 overhead @ 34.55%: $30,664

Authorized overhead (20% of IGA Salary + ERE Budget): $17,751

Net county subsidy: $12,913

Attachments

Health IGA

CPPW County Nutrition Services NEW 2010

COCHISE COUNTY GRANT APPROVAL FORM

Form Initiator: Jennifer Steiger

Department/Division: Health/Admin.

Date Prepared: 12/22/10

Telephone: 520-432-9402

Grantor: ADHS

Grant Title: IGA#: HG150048, County Nutrition Services

Grant Term From: 10/1/10 To: 9/30/11

Fund No/Dept. No: 225

Note: Fund No. will be assigned by the Finance Department if new.

New Grant ☒ Yes ☐ No Amendment No. _____ Increase $ _____ Decrease $ _____

Briefly describe purpose of grant:

To provide specialized supplemental nutrition information to school age children in Cochise County.

If amendment, provide reason:

If this is a mandated service, cite source. If not mandated, cite indications of local customer support for this service:

Funding Sources	Federal Funds 332.100	State Funds 336.100	County Funds 391.000	Other	Total
Current Fiscal Year	0	187,500			187,500
Remaining Years		tbd			
Total Revenue		187,500			187,500

Is County match required? ☐ Yes ☒ No If yes, dollar amount $ _____

Has this amount been budgeted? ☐ Yes ☒ No Identify Funding Source: ADHS

Federal Catalog of Federal Domestic Assistance (CFDA) No: _____

Method of collecting grant funds: Lump sum payment ☐ Quarterly payments ☐ Draw ☐ Reimbursement ☒

Is revertment of unexpended funds required at end of grant period? ☐ Yes ☐ No

a) Total A-87 cost allocation $30,664

b) Amount of overhead allowed by grant $17,751 County subsidy (a-b) $12,913

Does Grantor accept indirect costs as an allowable expenditure? ☒ Yes ☐ No

If yes, dollar amount $ _____ OR percentage allowed 20 %

Number of new positions that will be funded from grant: 0 Number of existing positions funded from grant: 1+

Executive Summary Form

Agenda Number: (HLT_____: County Nutrition Services)

Recommendation:

This is to request your approval of IGA # HG150048, County Nutrition Services, between the Arizona Dept of Health Services (ADHS) and the Cochise County Health Department. The contract is in the amount of $187,500, for the period of 10/1/2010 to 9/30/2011.

Background (Brief):

Between 1974 and 2008 the ADHS funded Community Nutrition Programs at the county-level via local health departments to provide nutritional information to school-aged children in county schools. The Cochise County Health Department was a grantee during this period. In 2008, due to state budget difficulties, this program was discontinued.

This new grant opportunity is re-start these services, with a renewed focus on nutrition, physical activity, and obesity prevention, using funds from the WIC program as "seed money" to allow the county health departments to re-initiate services and to facilitate their application for federal funds to continue the work under the Supplemental Nutrition Assistance Program/Nutrition Education program (SNAP-Ed) (formerly known as the Food Stamp program).

As before, the focus of program services will be to conduct nutrition education services county-wide in pre-schools and schools in which 50% or more of the students qualify for free or reduced-price school breakfast or lunch.

Fiscal Impact & Funding Sources:

The FTF grant is a cost-reimbursement grant. The net county subsidy for this grant is $12,867 calculated as follows:

Adjusted county budgeted salaries and EREs:	$88,752
A-87 overhead @ 34.55%:	$30,664
Authorized overhead (20% of IGA Salary + ERE Budget):	$17,751
Net county subsidy:	$12,913

Next Steps/Action Items/Follow-up:

Your approvals are respectfully requested.

C:\Documents and Settings\jsteiger\Local Settings\Temporary Internet Files\OLKB6\Executive Summary Form for VAN--County Nutrition Svcs IGA 10-01-11.doc

Executive Summary Form

Impact of Not Approving:

Childhood obesity, lack of physical activity, and poor nutritional knowledge (children and parents) is a growing problem nationwide and in Cochise County. This program allows us the opportunity to intervene at an early age, when habits are being developed, and allows us the opportunity to apply for continued funding from the federal government to continue the program sustainably into the future.

Not approving this agreement would result in the Health Department's inability to re-instate its suspended community nutrition activities and would be a missed opportunity to leverage state and federal funding to continue these services in Cochise County.

COCHISE COUNTY HEALTH DEPARTMENT
REQUEST FOR GRANT APPROVAL

Department: Health **Division:** Prevention Svcs.

Type of Grant: ADHS Contract #HG150048

New: X **Renewal:** _____ **Amendment:** _____

Effective Date: 10/1/10 **Expiration Date:** 9/30/11

Source of Grant Funds: ADHS

Amount: $ 187,500 **Budgeted? Yes** _____ **Fund #** 225 **No** X

Disbursement of Funds:
Start of Grant Date _____
Reimbursement of Expenditures X
Other (please specify) _____

Can funds be deposited into interest bearing accounts? Yes _____ **No** X
If Yes, General Fund? Yes _____ **No** _____

Administrative fees or other direct revenues to County General Fund: $ 0

County Match Required? Yes _____ **$** _____ **General Fund:** _____
No X **Other (specify):** _____

In-kind match (if any): **$12,913 County Subsidy** *(A87 OH = $30,664 – Auth. OH = $$17,751)*

Duration of grant funds: 10/1/10 – 9/30/11

Future County General Fund financial impact (if any): $ _____
Explain: _____

Overhead charges allowed by grant? Yes X (20%) **No** _____
(supply contract reference, statute or regulation prohibiting)

Additional personnel required. Yes _____ **No** X
(requires Human Resources position review and approval)

Additional space required? Yes _____ **No** X
If yes, how much? _____

IT/Communications support required? Yes X **No** _____
Telephones X
Computers X
Other (specify) _____

Other requirements/costs: _____

How will the County benefit from this funding? To provide the specialized supplemental nutrition information to school age children in Cochise County.

What will be the impact of not funding? Lack of any specialized supplemental nutrition information to school age children in Cochise County.

_____ 12/15/10
Department Head Signature (required) **Date Signed**

Revised 11/25/02

Arizona Department of Health Services

Division of Operations
Office of Procurement
1740 West Adams Street, Room 303
Phoenix, Arizona 85007-2670
(602) 542-1040
(602) 542-1741 Fax

JANICE K. BREWER, GOVERNOR
WILL HUMBLE, DIRECTOR

August 9, 2010

Cochise County Department of Health and Social Services
1415 W. Melody Lane, Building A
Bisbee, AZ 85603-3090
Attention: Ms. Vaira Harik

RE: Contract HG150048, CPPW, County Nutrition Services Intergovernmental Agreement (IGA)

Dear Ms. Harik:

Enclosed please find one (1) original of the referenced IGA for review and signature(s). ADHS would like to receive the signed IGA as soon as practicable, as the new Federal fiscal year starts October 1, 2010.

If returning by mail, please sign and return two (2) copies of the enclosed to my attention, at the address listed above. Or you may send scanned copies to johnsote@azdhs.gov. A fully executed copy will be returned to you after signature by the Procurement Office.

If you have any questions, you may call me at 602-542-2928.

Sincerely,

Terri Johnson
Procurement Officer

Enclosure

CC: Contract File

INTERGOVERNMENTAL AGREEMENT (IGA)

Contract No. HG150048

ARIZONA DEPARTMENT OF HEALTH SERVICES
1740 West Adams, Room 303
Phoenix, Arizona 85007
(602) 542-1040
(602) 542-1741 FAX

Project Title: CPPW: County Nutrition Services **Begin Date:** 10/01/10

Geographic Service Area: Cochise County **Termination Date:** 09/30/11

Arizona Department of Health Services has authority to contract for services specified herein in accordance with A.R.S. §§ 11-951, 11-952, 36-104 and 36-132. The Contractor represents that it has authority to contract for the performance of the services provided herein pursuant to:

- [X] **Counties: A.R.S. §§ 11-201, 11-951, 11-952 and 36-182.**
- [ ] **Indian Tribes: A.R.S. §§ 11-951, 11-952 and the rules and sovereign authority of the contracting Indian Nation.**
- [ ] **School Districts: A.R.S. §§ 11-951, 11-952, and 15-342.**
- [ ] **City of Phoenix: Chapter II, §§ 1 & 2, Charter, City of Phoenix.**
- [ ] **City of Tempe: Chapter 1, Article 1, §§ 1.01 & 1.03, Charter, City of Tempe.**

Amendments signed by each of the parties and attached hereto are hereby adopted by reference as a part of this Contract, from the effective date of the Amendment, as if fully set out herein.

Arizona Transaction (Sales) Privilege: _____

Federal Employer Identification No.: _____

Tax License No.: _____

Contractor Name: Cochise County Department of Health and Social Services

Address: 1415 W. Melody Lane, Building A

Bisbee, AZ 85603-3090

FOR CLARIFICATION, CONTACT:

Name: Ms. Vaira Harik

Phone: 520-432-9400

FAX No: 520-432-9840

CONTRACTOR SIGNATURE:

The Contractor agrees to perform all the services set forth in the Agreement and Work Statement. In accordance with A.R.S. 35-391.06 and A.R.S. 35-393.06, the Contractor hereby certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

Signature of Person Authorized to Sign Date

Print Name and Title

This Contract shall henceforth be referred to as Contract

No. HG150048 The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this Contract until Contractor receives a fully executed copy of the Contract.

State of Arizona

Signed this _____ day of _____, 2010

Procurement Officer

CONTRACTOR ATTORNEY SIGNATURE:

Pursuant to A.R.S. § 11-952, the undersigned Contractor's Attorney has determined that this Intergovernmental Agreement is in proper form and is within the powers and authority granted under the laws of Arizona.

12-15-10

Signature of Person Authorized to Sign Date

Print Name and Title

Attorney General Contract, No. PIGA2011000344, which is an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those parties to the Agreement represented by the Attorney General.

The Attorney General, BY:

Signature **Date**

Assistant Attorney General: Ronald E. Johnson

RESERVED FOR USE BY THE SECRETARY OF STATE

Under House Bill 2011, A.R.S. § 11-952 was amended to remove the requirement that Intergovernmental Agreements be filed with the Secretary of State.

1. **Definition of Terms.** As used in this Contract, the terms listed below are defined as follows:

1.1 *"Attachment"* means any document attached to the Contract and incorporated into the Contract.

1.2 *"ADHS"* means Arizona Department of Health Services.

1.3 *"Budget Term"* means the period of time for which the contract budget has been created and during which funds should be expended.

1.4 *"Change Order"* means a written order that is signed by a Procurement Officer and that directs the Contractor to make changes authorized by the Uniform Terms and Conditions of the Contract.

1.5 *"Contract"* means the combination of the Uniform and Special Terms and Conditions, the Specifications and Statement or Scope of Work, Attachments, Referenced Documents, any Contract Amendments and any terms applied by law.

1.6 *"Contract Amendment"* means a written document signed by the Procurement Officer and the Contractor that is issued for the purpose of making changes in the Contract.

1.7 *"Contractor"* means any person who has a Contract with the Arizona Department of Health Services.

1.8 *"Cost Reimbursement"* means a contract under which a contractor is reimbursed for costs, which are reasonable, allowable and allocable in accordance with the contract terms and approved by ADHS.

1.9 *"Days"* means calendar days unless otherwise specified.

1.10 *"Fixed Price"* establishes a set price per unit of service. The set price shall be based on costs, which are reasonable, allowable and allocable.

1.11 *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.12 *"Materials"* unless otherwise stated herein, means all property, including but not limited to equipments, supplies, printing, insurance and leases of property.

1.13 *"Procurement Officer"* means the person duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.14 *"Purchase Order"* means a written document that is signed by a Procurement Officer, that requests a vendor to deliver described goods or services at a specific price and that, on delivery and acceptance of the goods or services by ADHS, becomes an obligation of the State.

1.15 *"Services"* means the furnishing of labor, time or effort by a Contractor or Subcontractor.

1.16 *"Subcontract"* means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of this Contract.

1.17 *"State"* means the State of Arizona and/or the ADHS. For purposes of this Contract, the term "State" shall not include the Contractor.

2. **Contract Type.**

This Contract shall be: (check one)

_____ Fixed Price
__X__ Cost Reimbursement
_____ Not to Exceed

3. **Contract Interpretation.**

3.1 Arizona Law. The law of Arizona applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona.

3.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

3.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

3.3.1 Terms and Conditions;

3.3.2 Statement or Scope of Work;

3.3.3 Attachments;

3.3.4 Referenced Documents.

3.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

3.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

3.6 No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document.

3.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3.8 Headings. Headings are for organizational purposes only and shall not be interpreted as having legal significance or meaning.

4. **Contract Administration and Operation.**

4.1 Term. As indicated on the signature page of the Contract, the Contract shall be effective as of the Begin Date and shall remain effective until the Termination Date.

4.2 Contract Renewal. This Contract shall not bind, nor purport to bind, the State for any contractual commitment in excess of the original Contract period. The term of the Contract shall not exceed five (5) years. However, if the original Contract period is for less than five (5) years, the State shall have the right, at its sole option, to renew the Contract, so long as the original Contract period together with the renewal periods does not exceed five (5) years. If the State exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the exception of price and Scope of Work, which may be renegotiated.

4.3 New Budget Term. If a budget term has been completed in a multi-term Contract, the parties may agree to change the amount and type of funding to accommodate new circumstances in the next budget term. Any increase or decrease in funding at the time of the new budget term shall coincide with a change in the Scope of Work or change in cost of services as approved by the Arizona Department of Health Services.

4.4 Non-Discrimination. The Contractor shall comply with State Executive Order No. 99-4, as applicable, and all other applicable Federal and State non-discrimination laws, rules and regulations, including, but not limited to Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1975, Federal Executive Order 11246, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, Title VI of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act of 1990 (Public Law 101-366), and all other acts required for compliance with the federal funding source.

4.5 Records and Audit. Under A.R.S. § 35-214 and A.R.S. § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other records ("records") relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State and where applicable the Federal Government at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

4.6 Financial Management. For all contracts, the practices, procedures, and standards specified in and required by the Accounting and Auditing Procedures Manual for the ADHS funded programs shall be used by the Contractor in the management of Contract funds and by the State when performing a Contract audit. Funds collected by the Contractor in the form of fees, donations and/or charges for the delivery of these Contract services shall be accounted for in a separate fund.

4.6.1 *Federal Funding*. Contractors receiving federal funds under this Contract shall comply with the certified finance and compliance audit provision of the Office of Management and Budget (OMB) Circular A-133, if applicable. The federal financial assistance information shall be stated in a Change Order or Purchase Order.

4.6.2 *State Funding*. Contractors receiving state funds under this Contract shall comply with the certified compliance provisions of A.R.S. § 35-181.03.

4.7 Inspection and Testing. The Contractor agrees to permit access, at reasonable times, to its facilities.

4.8 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the signature page by the Contractor, unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to an ADHS Procurement Officer, unless otherwise stated in the Contract. An authorized ADHS Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice, and an amendment to the Contract shall not be necessary.

4.9 Advertising and Promotion of Contract. The Contractor shall not advertise or publish information for commercial benefit concerning this Contract without the prior written approval of an ADHS Procurement Officer.

4.10 Property of the State.

4.10.1 *Equipment*. Except as provided below or otherwise agreed to by the parties, the title to any and all equipment acquired through the expenditure of funds received from the State shall remain the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. When this Contract is terminated, the disposition of all such property shall be determined by the ADHS. For Fixed Price contracts, when the Contractor provides the services/materials required by the Contract, any and all equipment purchased by the Contractor remains the property of the Contractor. All purchases of equipment need to be reported to the ADHS Office of Inventory Control.

4.10.2 *Title and Rights to Materials.* As used in this section, the term "Materials" means all products created or produced by the Contractor under this Contract, including, but not limited to: written and electronic information, recordings, reports, research, research findings, conclusions, abstracts, results, software, data and any other intellectual property or deliverables created, prepared, or received by the Contractor in performance of this Contract. Contractor acknowledges that all Materials are the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. The Contractor is not entitled to a patent or copyright on these Materials and may not transfer a patent or copyright on them to any other person or entity. To the extent any copyright in any Materials may originally vest in the Contractor, the Contractor hereby irrevocably transfers to the ADHS, for and on behalf of the State, all copyright ownership. The ADHS shall have full, complete and exclusive rights to reproduce, duplicate, adapt, distribute, display, disclose, publish, release and otherwise use all Materials. The Contractor shall not use or release these Materials without the prior written consent of the ADHS. When this Contract is terminated, the disposition of all such Materials shall be determined by the ADHS. Further, the Contractor agrees to give recognition to the ADHS for its support of any program when releasing or publishing program Materials.

Notwithstanding the above, if the Contractor is a State agency, the following shall apply instead: It is the intention of ADHS and Contractor that all material and intellectual property developed under this Agreement be used and controlled in ways to produce the greatest benefit to the parties to this Contract and the citizens of the State of Arizona. As used in this paragraph, "Material" means all written and electronic information, recordings, reports, findings, research information, abstracts, results, software, data, discoveries, inventions, procedures and processes of services developed by the Contractor and any other materials created, prepared or received by the Contractor and subcontractors in performance of this Agreement. "Material" as used herein shall not include any pre-existing data, information, materials, discoveries, inventions or any form of intellectual property invented, created, developed or devised by Contractor (or its employees, subcontractors or agents) prior to the commencement of the services funded by this Agreement or that may result from Contractor's involvement in other service activities that are not funded by the Agreement.

Title and exclusive copyright to all Material shall vest in the State of Arizona, subject to any rights reserved on behalf of the federal government. As State agencies and instrumentalities, both ADHS and Contractor shall have full, complete, perpetual, irrevocable and non-transferable rights to reproduce, duplicate, adapt, make derivative works, distribute, display, disclose, publish and otherwise use any and all Material. The Contractor's right to use Material shall include the following rights: the right to use the Material in connection with its internal, non-profit research and educational activities, the right to present at academic or professional meetings or symposia and the right to publish in journals, theses, dissertations or otherwise of Contractor's own choosing. Contractor agrees to provide ADHS with a right of review prior to any publication or public presentation of the Material, and ADHS shall be entitled to request the removal of its confidential information or any other content the disclosure of which would be contrary to the best interest of the State of Arizona. Neither party shall release confidential information to the public without the prior expressly written permission of the other, unless required by the State public records statutes or other law, including a court order. Each party agrees to give recognition to the other party in all public presentations or publications of any Material, when releasing or publishing them.

In addition, ADHS and Contractor agree that any and all Material shall be made freely available to the public to the extent it is in the best interest of the State. However, if either party wants to license or assign an intellectual property interest in the material to a third-party for monetary compensation, ADHS and Contractor agree to convene to determine the relevant issues of title, copyright, patent and distribution of revenue. In the event of a controversy as to whether the Material is being used for monetary compensation or in a way that interferes with the best interest of the state or ADHS, then the Arizona Department of Administration shall make the final decision. Notwithstanding the above, "monetary compensation' does not include compensation paid to an individual creator for traditional publications in academia (the copyrights to which are Employee-

Excluded Works under ABOR Intellectual Property Policy Section 6-908C.4.), an honorarium or other reimbursement of expenses for an academic or professional presentation, or an unprofitable distribution of Material.

5. **Costs and Payments**

5.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate Contractor's Expenditure Report for payment from the State within thirty (30) days, as provided in the Accounting and Auditing Procedures Manual for the ADHS.

5.2 Recoupment of Contract Payments.

5.2.1 *Unearned Advanced Funds.* Any unearned State funds that have been advanced to the Contractor and remain in its possession at the end of each budget term, or at the time of termination of the Contract, shall be refunded to the ADHS within forty-five (45) days of the end of a budget term or of the time of termination.

5.2.2 *Contracted Services.* In a fixed price contract, if the number of services provided is less than the number of services for which the Contractor received compensation, funds to be returned to the ADHS shall be determined by the Contract price. Where the price is determined by cost per unit of service or material, the funds to be returned shall be determined by multiplying the unit of service cost by the number of services the Contractor did not provide during the Contract term. Where the price for a deliverable is fixed, but the deliverable has not been completed, the Contractor shall be paid a pro rata portion of the completed deliverable. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by Generally Accepted Accounting Procedures up to the date of contract termination.

5.2.3 *Refunds.* Within forty-five (45) days after the end of each budget term or of the time of termination of the Contract, the Contractor shall refund the greater of: i) the amount refundable in accordance with paragraph 4.2.1, Unearned Advanced Funds; or ii) the amount refundable in accordance with paragraph 5.2.2, Contracted Services.

5.2.4 *Unacceptable Expenditures.* The Contractor agrees to reimburse the ADHS for all Contract funds expended, which are determined by the ADHS not to have been disbursed by the Contractor in accordance with the terms of this Contract. The Contractor shall reimburse ADHS within 45 days of the determination of unacceptability.

5.3 Unit Costs/Rates or Fees. Unit costs/rates or fees shall be based on costs, which are determined by ADHS to be reasonable, allowable and allocable as outlined in the Accounting and Auditing Procedures Manual for the ADHS.

5.4 Applicable Taxes.

5.4.1 *State and Local Transaction Privilege Taxes.* The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.

5.4.2 *Tax Indemnification.* The Contractor and all subcontractors shall pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

5.4.3 *I.R.S. W9 Form.* In order to receive payment under any resulting Contract, the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona.

5.5 Availability of Funds for the Next Fiscal Year. Funds may not be presently available for performance under this Contract beyond the first year of the budget term or Contract term. The State may reduce payments or terminate this Contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated in the subsequent budget term. The State shall not be liable for any purchases or Subcontracts entered into by the Contractor in anticipation of such funding. The Procurement Officer shall have the discretion in determining the availability of funds.

5.6 Availability of Funds for the Current Contract Term. Should the State Legislature enter back into session and decrease the appropriations through line item or general fund reductions, or for any other reason these goods or services are not funded as determined by ADHS, the following actions may be taken by ADHS:

5.6.1 Accept a decrease in price offered by the Contractor;

5.6.2 Reduce the number of goods or units of service and reduce the payments accordingly;

5.6.3 Offer reductions in funding as an alternative to Contract termination; or

5.6.4 Cancel the Contract.

6. Contract Changes

6.1 Amendments, Purchase Orders and Change Orders. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment, Purchase Order and/or Change Order within the scope of the Contract, unless the change is administrative or otherwise permitted by the Special Terms and Conditions. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized State employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized Contract Amendments, Purchase Orders and/or Change Orders, shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

6.2 Subcontracts. The Contractor shall not enter into any subcontract under this Contract without the advance written approval of the Procurement Officer. The subcontract shall incorporate by reference all material and applicable terms and conditions of this Contract.

6.3 Assignments and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

7. Risk and Liability

7.1 Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received and accepted by authorized personnel at the location designated in the Purchase Order, Change Order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

7.2 Mutual Indemnification. Each party (as "indemnitor") agrees to indemnify, defend and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims, which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

7.3 Indemnification - Patent and Copyright. To the extent permitted by A.R.S. § 41-621 and A.R.S. § 35-154, the Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of performance of the Contract or use by the State of materials furnished by or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

7.4 Force Majeure.

7.4.1 *Liability and Definition.* Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; acts of terrorism; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-interventions not caused by or resulting from the act or failure to act of the parties; failures or refusals to act by government authority not caused by or resulting from the act or failure to act of the parties; and other similar occurrences beyond the control of the party declaring force majeure, which such party is unable to prevent by exercising reasonable diligence.

7.4.2 *Exclusions.* Force Majeure shall not include the following occurrences:

7.4.2.1 Late delivery of Materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

7.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

7.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

7.4.3 *Notice.* If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

7.4.4 *Default.* Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that, such delay or failure is caused by force majeure.

7.5 Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor for or toward the fulfillment of this Contract.

8. **Description of Materials** The following provisions shall apply to Materials only:

8.1 Liens. The Contractor agrees that the Materials supplied under this Contract are free of liens. In the event the Materials are not free of liens, Contractor shall pay to remove the lien and any associated damages or replace the Materials with Materials free of liens.

8.2 Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor agrees that, for one year after acceptance by the State of the Materials, they shall be:

8.2.1 Of a quality to pass without objection in the Contract description;

8.2.2 Fit for the intended purposes for which the Materials are used;

8.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

8.2.4 Adequately contained, packaged and marked as the Contract may require; and

8.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

8.3 Inspection/Testing. Subparagraphs 8.1 through 8.2 of this paragraph are not affected by inspection or testing of or payment for the Materials by the State.

8.4 Compliance With Applicable Laws. The Materials and services supplied under this Contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

8.5 Survival of Rights and Obligations After Contract Expiration and Termination.

8.5.1 *Contractor's Representations*. All representations and warranties made by the Contractor under this Contract in paragraphs 7 and 8 shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12.510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5.

8.5.2 *Purchase Orders and Change Orders*. Unless otherwise directed in writing by the Procurement Officer, the Contractor shall fully perform and shall be obligated to comply with all Purchase Orders and Change Orders received by the Contractor prior to the expiration or termination hereof, including, without limitation, all Purchase Orders and Change Orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

9. State's Contractual Remedies

9.1 Right to Assurance. If the State, in good faith, has reason to believe that the Contractor does not intend to, or is unable to, perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract.

9.2 Stop Work Order.

9.2.1 *Terms*. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period up to ninety (90) Days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

9.2.2 *Cancellation or Expiration*. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

9.3 Non-exclusive Remedies. The rights and remedies of ADHS under this Contract are not exclusive, and ADHS is entitled to all rights and remedies available to it, including those under the Arizona Uniform

Commercial Code and Arizona common law.

9.4 Right of Offset. The State shall be entitled to offset against any sums due the Contractor in any Contract with the State or damages assessed by the State because of the Contractor's non-conforming performance or failure to perform this Contract. The right to offset may include, but is not limited to, a deduction from an unpaid balance and a collection against the bid and/or performance bonds. Any offset taken for damages assessed by the State shall represent a fair and reasonable amount for the actual damages and shall not be a penalty for non-performance.

10. **Contract Termination**

10.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is, or becomes at any time while the Contract or an extension of the Contract is in effect, an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation, unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

10.2 Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement, securing the Contract or an Amendment to the Contract, or receiving favorable treatment concerning the Contract, including the making of any determination or decision about Contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

10.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor or its subcontractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

10.4 Termination Without Cause.

10.4.1 Both the State and the Contractor may terminate this Contract at any time with thirty (30) days notice in writing specifying the termination date. Such notices shall be given by personal delivery or by certified mail, return receipt requested.

10.4.2 If the Contractor terminates this Contract, any monies prepaid by the State, for which no service or benefit was received by the State, shall be refunded to the State within 5 days of the termination notice. In addition, if the Contractor terminates the Contract, the Contractor shall indemnify the State for any sanctions imposed by the funding source as a result of the Contractor's failure to complete the Contract.

10.4.3 If the State terminates this Contact pursuant to this Section, the State shall pay the Contractor the Contract price for all Services and Materials completed up to the date of termination. In a fixed price contract, the State shall pay the amount owed for the Services or Materials by multiplying the unit of service or item cost by the number of unpaid service units or items. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by GAAP up to the date of termination. Upon such termination, the Contractor shall deliver to the ADHS all deliverables completed. ADHS may require Contractor to negotiate the terms of any remaining deliverables still due.

10.5 Mutual Termination. This Contract may be terminated by mutual written agreement of the parties

specifying the termination date and the terms for disposition of property and, as necessary, submission of required deliverables and payment therein.

10.6 Termination for Default. The State reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any material obligation, term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. In the event the ADHS terminates the Contract in whole or in part as provided in this paragraph, the ADHS may procure, upon such terms and in such manner as deemed appropriate, Services or Materials, similar to those terminated, and Contractor shall be liable to the ADHS for any excess costs incurred by the ADHS in obtaining such similar Services or Materials.

10.7 Continuation of Performance Through Termination. Upon receipt of the notice of termination and until the effective date of the notice of termination, the Contractor shall perform work consistent with the requirements of the Contract and, if applicable, in accordance with a written transition plan approved by the ADHS. If the Contract is terminated in part, the Contractor shall continue to perform the Contract to the extent not terminated. After receiving the notice of termination, the Contractor shall immediately notify all subcontractors, in writing, to stop work on the effective date of termination, and on the effective date of termination, the Contractor and subcontractors shall stop all work.

10.8 Disposition of Property. Upon termination of this Contract, all property of the State, as defined herein, shall be delivered to the ADHS upon demand.

11. **Arbitration** Pursuant to A.R.S. § 12-1518, disputes under this Contract shall be resolved through the use of arbitration when the case or lawsuit is subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12 -133.

12. **Communication**

12.1 Program Report. When reports are required by the Contract, the Contractor shall provide them in the format approved by ADHS.

12.2 Information and Coordination. The State will provide information to the Contractor pertaining to activities that affect the Contractor's delivery of services, and the Contractor shall be responsible for coordinating their activities with the State's in such a manner as not to conflict or unnecessarily duplicate the State's activities. As the work of the Contractor progresses, advice and information on matters covered by the Contract shall be made available by the Contractor to the State throughout the effective period of the Contract.

13. **Client Grievances** If applicable, the Contractor and its subcontractors shall use a procedure through which clients may present grievances about the operation of the program that result in the denial, suspension or reduction of services provided pursuant to this Contract and which is acceptable to and approved by the State.

14. **Sovereign Immunity** Pursuant to A.R.S. § 41-621(O), the obtaining of insurance by the State shall not be a waiver of any sovereign immunity defense in the event of suit.

15. **Fingerprint and Certification Requirements/Juvenile Services.**

15.1 Paid and Unpaid Personnel. The Contractor shall ensure that all paid and unpaid personnel who are required or are allowed to provide Services directly to juveniles have obtained fingerprint clearance cards in accordance with A.R.S. § 41-1758 et. seq.

15.2 Costs. The Contractor shall assume the costs of fingerprint certifications and may charge these costs to its fingerprinted personnel.

16. **Administrative Changes** The Procurement Officer, or authorized designee, reserves the right to correct any obvious clerical, typographical or grammatical errors, as well as errors in party contact information (collectively, "Administrative Changes"), prior to or after the final execution of a Contract or Contract Amendment.

Administrative Changes subject to permissible corrections include: misspellings, grammar errors, incorrect addresses, incorrect Contract Amendment numbers, pagination and citation errors, mistakes in the labeling of the rate as either extended or unit, and calendar date errors that are illogical due to typographical error. The Procurement Office shall subsequently send to the Contractor notice of corrections to administrative errors in a written confirmation letter with a copy of the corrected Administrative Change attached.

17. **Survival of Terms After Termination or Cancellation of Contract** All applicable Contract terms shall survive and apply after Contract termination or cancellation to the extent necessary for Contractor to complete and for the ADHS to receive and accept any final deliverables that are due after the date of the termination or cancellation.

18. **Health Insurance Portability and Accountability Act of 1996 (HIPAA)** The Contractor warrants that it is familiar with the requirements of HIPAA and HIPAA's accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the Arizona Department of Health Services (ADHS) in the course of performance of the Contract so that both the ADHS and Contractor will be in compliance with HIPAA, including cooperation and coordination with the ADHS Privacy Officer and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep the ADHS and Contractor in compliance with HIPAA, including, but not limited to, business associate agreements.

    If requested by the ADHS, Contractor agrees to sign the "Arizona Department of Health Services Pledge To Protect Confidential Information" and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in HIPAA training offered by the ADHS or to provide written verification that the Contractor has attended or participated in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the ADHS HIPAA Compliance Officer.

19. **Compliance Requirements for A.R.S. § 41-4401, Government Procurement: E-Verify Requirement**

    19.1 The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)

    19.2 A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

    19.3 Failure to comply with a State audit process to randomly verify the employment records of Contractors and subcontractors shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

    19.4 The State Agency retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.

20. **A.R.S. 35-393 and A.R.S. 35-391** In accordance with A.R.S. 35-393 and A.R.S. 35-391, the Contractor shall not have scrutinized business operations in Iran or Sudan.

21. **Comments Welcome** The ADHS Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: ADHS Procurement Administrator, Arizona Department of Health Services, 1740 West Adams, Suite 303, Phoenix, Arizona, 85007.

A. Background

Over the last thirty (30) years, the prevalence of childhood obesity in the United States has doubled. In Arizona, nearly one-third (30.6%) of children, ages ten (10) to seventeen (17) years old, and nearly three quarters (73.3%) of Arizona adults are either overweight or obese. To reverse the obesity epidemic, communities are seeking ways for people to eat healthy foods and to be physically active where they work, live and play.

The Communities Putting Prevention to Work (CPPW) County Nutrition Services, builds on the extensive and successful Arizona Champions for Change social marketing efforts and community education interventions for nutrition and physical activity in the Arizona Women, Infants and Children (WIC) and Supplemental Nutrition Assistance Program Nutrition Education (SNAP-Ed) programs.

Arizona's successful state funded Community Nutrition Program (1974-2008) in rural counties provided the framework for the county-level obesity prevention activities included in CPPW County Nutrition Services.

B. Objective

1. The Contractor shall implement public health nutrition services using evidence-based community strategies and programs that lead to increased levels of physical activity, improved nutrition and decreased overweight/obesity prevalence.

2. The Contractor shall develop an application to provide a SNAP-Ed Program county-wide for Federal Fiscal Year 2012.

C. Scope of Work

The Contractor shall utilize activities in these four (4) areas to achieve the CPPW County Nutrition Services objectives:

1. Healthy Choices – Help parents make health family choices about nutrition and physical activity;

2. Healthier Schools – Establish standards for food quality, participation in meal programs, physical activity, and nutrition education in schools;

3. Physical Activity – Increase opportunities for children to be physically active and create new opportunities for families to be moving together; and

4. Accessing Healthy and Affordable Food – Work to bring grocery stores to underserved areas, help convenience stores carry healthier food options, bring farmers markets and fresh foods into underserved communities to boost family health and local economies.

D. Tasks

1. Healthy Choices

The Contractor shall:

1.1 Utilize ADHS Champions for Change messages and materials in all USDA Nutrition Programs and incorporate ADHS messages and materials into CPPW County Nutrition Services activities;

1.2 Conduct nutrition education in preschools and schools in which $\geq$ 50% of the students qualify for free or reduced price school lunch or breakfast using the following curriculum or other approved curriculum;

1.2.1 Color Me Healthy (Preschool),

1.2.2 Fruits and Veggies – More Matters ™ (3rd Grade),

1.2.3 Building Better Bones (5th Grade), and

1.2.4 We Can (Parents);

1.3 Provide food demonstrations in USDA Nutrition Programs and other community settings serving low income audiences, such as;

1.3.1 WIC clinics,

1.3.2 Summer Food Program sites,

1.3.3 Commodity Supplemental Food Program,

1.3.4 Food Distribution Program on Indian Reservations (FDPIR) locations,

1.3.5 Farmer's Markets,

1.3.6 Food Banks,

1.3.7 Domestic Violence Shelters,

1.3.8 Homeless Shelters, and or

1.3.9 Other Locations;

1.4 Develop a Federal Fiscal Year (FFY) 2012 Arizona Nutrition Network Local Incentive Award (AZNN LIA) Application to provide county-wide SNAP- Ed services.

2. Healthier Schools

The Contractor shall:

2.1 Participate on School Wellness Councils in schools where ≥ 50% of the students qualify for free or reduced price school lunch or breakfast;

2.2 Conduct an assessment of the nutrition components of the School Health Index in schools or the Nutrition and Physical Activity Self-Assessment for Child Care (NAP SACC) in preschools; and

2.3 Promote participation in the ADHS Empower Program to all licensed child care facilities county-wide.

3. Physical Activity

The Contractor shall:

3.1 Provide School Wellness Councils with information on Safe Routes to School funding opportunities;

3.2 Conduct physical activity demonstrations, promotions or referrals that include a nutrition message in schools, preschools and other community settings serving low-income audiences; and

3.3 Promote sites and locations of free or low cost opportunities for families to be physically active.

4. Accessing Healthy and Affordable Food

The Contractor shall:

4.1 Conduct an assessment related to the availability of health and affordable foods in at least one (1) community;

4.2 Provide general briefings to health care providers and educators about nutrition education and physical activity services for low-income families;

4.3 Provide nutrition education in grocery stores serving SNAP and WIC clients including activities such as:

4.3.1 Healthy shopping tours,

4.3.2 Food demonstrations, and

4.3.3 Other nutrition education events;

4.4 Collaborate with schools, childcare providers and health professionals to increase participation in USDA Nutrition Programs such as the following;

4.4.1 SNAP,

4.4.2 WIC,

4.4.3 Summer Food Program,

4.4.4 Commodity Supplemental Food Program,

4.4.5 School Lunch,

4.4.6 School Breakfast,

4.4.7 Child and Adult Care Food Program, and

4.4.8 Other Food Assistance Programs.

E. Requirements

1. The CPPW County Nutrition Services will be managed by a Public Health Nutritionist with certification by the Commission on Dietetic Registration as a Registered Dietitian. Staff with previous community health experience, and or master's degree in public health nutrition is preferred.

2. CPPW County Nutrition Services staff will participate in four (4) AZNN Partner Meetings annually.

F. State Provided Items

ADHS shall provide:

1. Curriculum for use in preschools and schools including Building Better Bones classes, and Fruits and Veggies – More Matters™;

2. Technical assistance in the use of curriculum and assessment tools, including Color Me Health, We Ca, School Health Index, and NAP SACC;

3. Food demonstration training and equipment;

4. Contractor's Expenditure Report (CER) electronic file; and

5. Quarterly report template, electronic file.

G. Deliverables

Contractor shall submit:

1. Contractor Expenditure Report (CER) due the 15th day of the Month, reflecting the previous month's expenditures; and

2. Quarterly reports, due the 15th day of the Month after the end of each calendar quarter.

H. Notices, Correspondence and Reports

1. Notices, Correspondence and Reports and CERs from the Contractor to ADHS shall be sent to:

   Arizona Nutrition Network Manager
   Arizona Department of Health Services
   Bureau of Nutrition and Physical Activity
   150 N. 18th Ave. Ste 310
   Phoenix, AZ 85007
   602-542-1886 – Phone
   602-542-1890 - FAX

2. Notices, Correspondence and Payments from the ADHS to the Contractor shall be sent to:

   Contractor _____

   Attention: _____

   Address _____

   Address _____

   City, State, ZIP_____

   Phone _____

   Fax _____

   Email _____

3. Payments from ADHS to the Contractor shall be sent to:
   (Contractor to complete if different from above)

   Contractor _____

   Attention: _____

   Address _____

   Address _____

   City, State, ZIP _____

   Phone _____

   Fax _____

   Email _____

Price Sheet

Effective October 1, 2010

Budget Categories for Local Share (WIC Lottery funds)	Approved Local Share Budget Total
Personnel Costs/Salary	$61,550.00
Fringe Benefits	$20,312.00
Contracts/Grants/Agreements	$0.00
Non-Capital Equipment Supplies	$10,569.00
Materials	$8,445.00
Travel	$4,750.00
Building/Space	$0.00
Maintenance	$0.00
Equipment and Other Capital	$3,000.00
Indirect Costs	$16,374.00
TOTAL	**$125,000.00**

Budget Categories for Federal Share (SNAP Ed Funds)	Approved Federal Share Budget Total
Personnel Costs/Salary	$0.00
Fringe Benefits	$0.00
Contracts/Grants/Agreements	$0.00
Non-Capital Equipment Supplies	$27,000.00
Materials	$25,500.00
Travel	$5,000.00
Building/Space	$0.00
Maintenance	$0.00
Equipment and Other Capital	$5,000.00
Indirect Costs	$0.00
TOTAL	**$62,500.00**

With prior written approval from the Program Manager, the Contractor is authorized to transfer up to a maximum of ten percent (10%) of the total budget amount between line items. Transfers of funds are only allowed between funded line items. Transfers exceeding 10% or to a non-funded line item shall require an Amendment.