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**Report of Investigation**

**FILE NO:** 20-0008-I

**DATE:** July 29, 2020

**SUBJECT:** Theft of City Property

**STATUS:** Final

**INVESTIGATOR:** JoVonne O'Connell

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Chief Administration Officer  
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Accountability in Government Oversight Committee  
Cultural Services Department Director  
File

## Executive Summary

The Office of Inspector General (OIG) for the City of Albuquerque (City), NM, conducted an investigation based on information received regarding concerns that a twenty-foot (20') trailer was removed from the BioPark grounds and was given to a local subcontractor (SC). It is alleged that this trailer belonged to the City. According to the complaint, there are cameras at the location that should have captured the trailer being removed by SC sometime during the weekend of April 25, 2020. The complaint further stated that the security officer who was on duty observed the trailer being removed after SC measured the gate to ensure there was enough clearance for the trailer to fit through the opening.

During the course of the investigation, the OIG reviewed photos of the trailer that was removed. The OIG also reviewed CCTV footage from April 26, 2020 that showed the trailer being towed off of BioPark property through Gate 5 by a pickup truck that bared the name and logo of SC's company. The security log from Gate 5 showed that SC and one of his employees entered BioPark grounds on April 26, 2020 at 6:54 AM and exited at 7:07 AM.

The OIG also reviewed the current Fixed Assets List for the BioPark, as well as photos and Public Surplus Auction documentation provided by the City Fleet/Warehouse Manager. These documents show that the BioPark salvaged one trailer. The trailer was salvaged and sent to Public Surplus in 2019, and in reviewing the photos of this trailer, it was evident that it was not the same trailer that SC had removed from BioPark grounds on April 26, 2020.

Through interviews with the subcontractor (SC), the BioPark Facilities Operations Coordinator (FOC), the BioPark Project Manager who is with the Department of Municipal Development (DMD PM), and with the On-Call Contractor (OCC) for the BioPark, the OIG learned that a work order had been generated for the OCC to remove two trailers that were on the BioPark property (specifically the zoo property). The OCC in turn entered into a subcontract with SC to perform this work. This resulted in one trailer being removed on April 26, 2020. As of July 1, 2020, the second trailer was still on the property and still had employees working out of it. However, per the DMD PM, the second trailer was scheduled to be removed mid-July 2020. The OIG reviewed the BioPark On-Call Contract, the work order for removal/demo of the trailers, as well as the subcontract between OCC and SC for the removal/demo of the trailers.

The OIG spoke with several employees with the BioPark and the Cultural Services Department (CSD). The OIG also spoke with the current Executive Director for the BioPark Society. Nobody could identify the origin of the trailers in question and whether or not they were City owned items purchased with City funds. Because the original source of the trailers was unknown, the true value of the trailers was also unknown. The DMD PM reached out to the BioPark Fiscal Program Manager (BP FPM) and asked if he could help determine the value of the two trailers and if approval was needed for their removal/demolition. Per the BP FPM, because the trailers were not on the Fixed Assets List and because their value was unknown, it was not necessary to generate any paperwork to remove/demo them.

## **Abbreviations**

BP1:	BioPark Employee 1
BP2:	BioPark Employee 2
BP FPM:	BioPark Fiscal Program Manager
CSD:	Cultural Services Department
DMD PM:	Project Manager for Department of Municipal Development
ED:	Executive Director for the BioPark Society
FOC:	Facilities Operations Coordinator
OCC:	On-Call Contractor
OIG:	Office of Inspector General
SC:	Subcontractor

## **Introduction**

The mission of the Office of Inspector General (OIG) is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque in order to safeguard and preserve the public trust.

The OIG received information concerning a twenty-foot (20') trailer at the BioPark, which is alleged to have belonged to the City. The complaint further indicated that on Saturday, April 25th, 2020 the Facilities Operations Coordinator (FOC) is alleged to have given the trailer to a local subcontractor (SC). The complainant stated that there are cameras at the location that should have captured the trailer being removed by SC. The complaint further stated that the security officer who was on duty observed the trailer being removed after SC measured the gate to ensure there was enough clearance for the trailer to fit through the opening.

## **Scope and Methodology**

The OIG's investigation will focus on the complaint regarding concerns that a City-owned portable trailer was removed from the BioPark and was given to a local subcontractor. The methodology will consist of:

- Review of pertinent documents to include contracts, subcontracts, work orders;
- Review of photographs of the trailer;
- Review of CCTV video footage from the Gate 5 entrance on BioPark grounds;
- Review of relevant City Administrative Instructions and COA's policies and procedures;
- Interviews of relevant City employees; and
- Interviews of relevant contractors and subcontractors.

## Investigation

### Background

When a government entity has property that they no longer need, it is considered surplus. This can include assets ranging from commonplace office equipment and furniture, to bigger items such as heavy equipment and machinery as well as vehicles.

The City of Albuquerque (City) has policies and procedures for handling items that become surplus. These can be found under:

Administrative Instruction No: 6-2 Disposition of Surplus Property, Salvage Property, and Scrap Property.

### 3. DISPOSITION OF SURPLUS PROPERTY, SALVAGE PROPERTY, OR SCRAP PROPERTY

**A. Starting the Process.** Each department shall be responsible for ensuring that Surplus Property, Salvage Property, and Scrap Property is properly disposed of in accordance with this Administrative Instruction and that the City assets are properly and timely removed from the City's fixed asset inventory list, where applicable.

1. **Determination.** No department may dispose of any City property until the Property Disposal Officer has determined it to be Surplus Property, Salvage Property or Scrap Property, in accordance with the Public Purchases Ordinance. No City employee shall directly dispose of any City property.

2. **Surplus/Salvage Property Form.** Departments shall use Surplus/Salvage Property Forms, available from the City Warehouse, to commence with the disposition of or to obtain Surplus Property or Salvage Property. The Form shall be completed by the individual disposing of the Surplus Property or Salvage Property or requesting the Surplus Property or Salvage Property.

(4) The Fair Market Value or an estimate. For vehicles, the Fair Market Value is determined by the Department of Finance and Administrative Services, Fleet Management Division.

**B. Surplus Property.** Once City property has been determined to be Surplus Property, it may be disposed of in one of the following ways:

1. **Transfers to other departments by electronic process.** Surplus Property may be transferred to other departments through the Public Surplus on-line system. All Property Disposal Officer is solely responsible for adding a Department's Surplus Property to the on-line system.

a) Surplus Property shall be processed on the Public Surplus on-line system through the Surplus/Salvage Property Form.

b) All Surplus Property except vehicles and computers (unless otherwise determined by approval of the Chief Procurement Officer) will be available to City departments for transfer before being added to the auction.

c) The Fixed Assets Liaison is responsible for assuring that Fixed Assets transferred in accordance with this Section are removed from the Department's Fixed Asset inventory through the Accounting Division.

## **2. Sale of Surplus using On – Line Auction**

a) Surplus Property not transferred to another Department shall be auctioned.

(1) All Surplus Property sold by the City is sold "as is" with no warranty implied or granted. All risk is borne by the buyer.

(2) When the Surplus Property is sold, the City Treasury Division receives payment in the form of a check from the auctioneer.

(3) The buyer of the Surplus Property will arrange through the Property Disposal Officer to pick the item up from the City.

(4) At the time of pick up, the Property Disposal Officer will require the buyer to sign receipt of the item and will retain this documentation on file to validate the item has been picked up.

(5) If the buyer does not have a receipt, the Property Disposal Officer can print a receipt copy from the system, once verifying the Surplus Property has not already been picked up, and require the buyer to sign that receipt for pick up identifying the property that has been received.

(6) No City employees that administers the sale of the Surplus property shall submit a bid or solicit any other person to submit a bid on Surplus Property through the auction process to include Department personnel, DFAS Warehouse, Central Purchasing or Fleet personnel.

## **3. Sale at fair market value to another government agency; donation to another government agency; or sale at fair market value to a non-profit organization**

a) The Department's Property Disposal Officer must obtain from the approving authority of a government agency or non-profit organization a letter requesting the Surplus Property.

b) Non-profit organizations must provide validation of non-profit status as 501c3 in any request for Surplus Property.

c) The Property Disposal Officer will transfer Surplus Property to the government agency or non-profit organization as follows:

(1) The Surplus Property will be sold to the government agency or non-profit organization at fair market value or at a discounted rate as determined by the designated authorizing authority. Fair Market Value is determined by the user Department, except for vehicles. Vehicle Fair Market Value is determined by one of the following City Departments or divisions: Fleet Management Division, Solid Waste Management or ABQ Ride, and Aviation Department.

(2) Payment will be made in the form of a check to the City in the amount determined.

(3) Payment will be handled in accordance with cash handling procedures established by the City.

(4) Proceeds will be deposited to a City revenue account as determined by the Accounting Officer.

d) Items sold or donated under this Section will be signed received by the requesting agency.

e) The Fixed Assets Liaison will assure that Fixed Assets are removed from the Department's fixed asset inventory through the Accounting Division.

f). The Fixed Assets Liaison will retain all documentation for the entire transaction and process.

**4. Public auction.** Surplus Property may be sold at public auction through the City Warehouse, subject to scheduling of a public auction. At auction, no City employees that administer the sale shall submit a bid or solicit any other person to submit a bid on Surplus Property.

**5. Sealed bid.** Surplus Property may be sold by sealed bid through the Purchasing Division. Items sold through Purchasing Division Warehouse are subject to a service charge as required by Warehouse funded functions of the City.

**C. Salvage Property.** Once property has been determined to be Salvage Property, it shall be disposed of as follows:

1. Salvage Property that is not functional and may require repair to make operational but is no longer required of the department (copiers, typewriters, micrographic equipment; etc., or other non-office equipment such as generators, mowers, mulchers, etc. shall follow the same disposal procedures as set forth in Section B, above.

2. Salvage Property that is of no value in its original design but retains a value in the recovery of recyclable materials (items composed of metals such as cast iron, steel, brass, bronze, copper, aluminum and related materials of recycle value, salvage water meters, aluminum signs, aluminum and steel poles, pipe, fittings, etc.) may be disposed of following the same procedures as set forth in Section B, above, or may be sold to the highest of three written quotes.

3. Quotes must be requested with the same information and criteria for each vendor solicited.

- a. Award shall be made to the highest quote meeting the specification requirement.
- b. Payment received will be in the form of a check to the City in the amount determined.
- c. Payment will be handled in accordance with cash handling procedures established by the City.
- d. Proceeds will be deposited to a City revenue account as determined by the Accounting Officer.

**D. The City Warehouse may receive surplus or salvage items.** If a Department is unable to store Surplus Property or Salvage Property pending disposal, it may transfer such property to the City Warehouse by Surplus/Salvage Property Form. **IT IS THE RESPONSIBILITY OF THE DEPARTMENT TURNING IN THE PROPERTY TO PHYSICALLY MOVE THE ITEMS DECLARED SURPLUS PROPERTY OR SALVAGE PROPERTY TO THE DESIGNATED SURPLUS HOLDING AREA BY MAKING AN APPOINTMENT TO DO SO WITH THE PURCHASING DIVISION, CITY WAREHOUSE.**

**E. Scrap Property.** If the City is unable to dispose of Surplus Property or Salvage Property by one of the means identified in Sections (B) 1-4 or (C) 1-3, above, the property shall be considered to have no value and may be disposed of as Scrap Property. Scrap Property may be disposed of in a manner determined by the department director to be most advantageous to the City.

### Photos

The OIG reviewed photos that were provided of the trailer referred to in the complaint.



## Video Footage from BioPark Grounds

The OIG reviewed Closed Caption Television (CCTV) video footage of Gate 5, which is the Zoo employee gate entrance. The video footage is from Sunday, April 26, 2020 and the vantage point is from outside the guard shack at the gate entrance. At 6:51:50 AM a black pickup truck drives up. A male gets out of the driver's side and takes a magnet out of the backseat and places it on the driver's side back door of the pickup truck. The magnet bears the name and logo of SC's company. The guard at the guard shack logs information from the male in the black truck and this male then proceeds through onto Zoo grounds. A second male in a red pickup truck followed behind the black pickup truck. The red pickup truck also had signage on the driver's side door which bears the name of SC's company.

At 7:06:30 AM the video footage shows the gate open and at 7:06:35 AM the black pickup truck exits with office trailer hitched to it. The red pickup truck exits behind and both trucks drive away down the road.

## Gate 5 Security Log

The OIG reviewed the security log from Gate 5, which is titled "Rio Grande Zoological/Bio Park Visitor Register". The log shows that SC and one of his employees came to Gate 5 on April 26, 2020. Their "Time In" was notated as 6:54 AM and their "Time Out" was notated as 7:07 AM.

The log also shows that FOC came to Gate 5 on April 26, 2020. FOC's "Time In" was notated as 6:34 am. FOC's "Time Out" was notated as 15:33 (3:33 PM).

The OIG later traveled out to SC's business and found that the trailer was parked on his property.

## Public Surplus

The OIG contacted the City Fleet/Warehouse Manager and asked if the trailer from the BioPark had been put on public surplus. The City Fleet/Warehouse Manager stated that the only trailer they show that the BioPark salvaged was back in Aug 2019. She provided the unit number 947801 and provided the Public Surplus Auction documentation for this trailer, as well as photos of the trailer. It was clear from the photos that this was not the same trailer that had been removed from BioPark grounds on April 26<sup>th</sup>.





### **Contact with the BioPark Society**

The OIG spoke with the Executive Director (ED) for the BioPark Society and inquired about the trailer that had been removed on April 26<sup>th</sup>. ED stated that she has been with the BioPark Society for 20 years and she remembers the trailer, as they used to use it for their offices once upon a time. However, ED did not recall this trailer being purchased or donated by the BioPark Society.

ED spoke with another individual who had been with the BioPark Society longer than ED and that individual did not believe that the trailer in question had been purchased or donated by the BioPark Society.

### **Fixed Assets List**

The Deputy Director for CSD sent the OIG the Fiscal Year 2019 (FY19) Fixed Assets List, which the OIG reviewed. There was one trailer listed (line 165) with a description of “van trailer”. The following additional information was listed for this trailer:

- Manufacturer of the trailer -- Wells Cargo;
- The model -- CVG2839;
- The Profile ID -- HVEQUIP;
- Both the Asset ID and Tag No. -- 947801;
- The “Acquired Date” of the trailer -- 2/15/1994;
- The cost of the trailer -- \$14,196; *and*
- The Serial ID (or the Vehicle Identification Number -- VIN).

The DMD Project Manager for the BioPark (DMD PM) also sent the OIG a copy of the “CULTURAL FY19 FIXED ASSET INVENTORY” for the BioPark. This document contained the same information as the Fixed Assets List provided by the CSD Deputy Director. However, the “CULTURAL FY19 FIXED ASSET INVENTORY” document also notated that the listed trailer was salvaged 5/16/19.

The OIG cross referenced the information on these lists with the Public Surplus Auction documentation provided by the City Fleet/Warehouse Manager and found that “Item Code” on the Public Surplus Auction documentation matched the “Asset ID and Tag No” on the Fixed Assets Lists (947801). The year and make also matched (1994 Wells Cargo Trailer). Finally, the Serial

ID on the Fixed Assets Lists matched the VIN on the Public Surplus Auction documentation. It was determined that the one trailer listed on the Fixed Assets Lists was not the trailer that had been removed from the BioPark property on April 26, 2020.

### **On-Call BioPark Facilities Construction Services Contract**

On April 8, 2019 OCC was awarded the On-Call BioPark Facilities Construction Services Contract (City of Albuquerque Project No. P437903). This is a two-year contract which runs from May 13, 2019 to May 13, 2021.

### **Work Order for Portable Demo and Removal**

On March 24, 2020 OCC created a job order package and proposal within the “Gordian Job Order Contracting Core for City of Albuquerque”. The job name was titled “Office Trailer Removal and Disposal” (job number 437903.26). The job description was:

*Remove and dispose of existing office trailer located in the storage area near the Kit Carson Gate. Remove and dispose of stairs, landing, skirting, utilities and trailer structure. Remove and dispose of existing BioPark office trailer near the main entrance. Relocate existing Morgan building. Disconnect utilities, skirting, stair landing and haul off for disposal.*

Photos of the two trailers were also included in this job order package. The trailer on the left measures 10 x 36 and is the trailer which was removed by SC on April 26, 2020. The trailer on the right measures 10 x 53 and is the second trailer contracted to be removed.



The “Proposal Value” for this particular job was listed as \$12,861.

A City of Albuquerque Work Authorization Form was created on March 26, 2020 for “Portable Demo and removal”. The Scope of Work states:

*“This WORK ORDER shall consist scope of work from [OCC] JOC price proposal created named ‘Office Trailer Removal and Disposal’ ...”*

The Work Order total is listed as \$11,922.39 and the total with NMGRT & Bond is listed as \$12,861.28.

The following individuals signed off on the Work Order Authorization and Receipt section:

- The DMD PM signed off on March 26, 2020 and is listed as a Recommended party to authorize the work order;
- The Director for CSD signed off on April 10, 2020 and is listed as a Recommended party to authorize the work order;
- The CIP official signed off on April 13, 2020 and is listed as a party who reviewed the work order;
- The Director for DMD signed off on April 13, 2020 and is listed as a party who gave the authorization to construct; *and*
- The OCC signed off on April 13, 2020 as having received the authorized and approved work order

### **Proposal and Subcontract**

The SC submitted a proposal to OCC on April 21, 2020. The proposal was to “remove two office trailers” and stated that SC “will furnish labor and equipment to remove two office trailers (one 10’x36’ and one 10’x53’) from ABQ Bio Park. This proposal includes demo/removal and disposal of the office trailers.” It further stated SC “is not responsible for mechanical connect or disconnect.” Per the proposal, the total cost for the removal of these two trailers was \$6,000.00.

A Subcontract Agreement dated April 21, 2020 shows the contract/agreement between OCC (contractor) and SC (subcontractor). The Job # was 198022 and the contract amount was \$6,000.00. The subcontract states:

*Section 1: The subcontractor agrees to perform all work as described in Section 2 hereof for the Owner on the property (hereinafter called “The Project”) with the following description and address:*

*Portable Demo and Removal  
903 10th St. SW  
Albuquerque, NM 87102*

*Section 2: The Subcontractor and Contractor agree that the materials and/or services to be furnished and the work to be done by the Subcontractor are as follows:*

*PROVIDE ALL LABOR, MATERIAL, EQUIPMENT AND SUPERVISION FOR A COMPLETE OFFICE TRAILER REMOVAL AND HAUL OFF TO INCLUDE ONE 10'W X 36' AND ONE 10'w X 53' TRAILERS CURRENTLY LOCATED AT THE BIO PARK. EXCLUDES MEP DISCONNECT.*

*SUBMITTALS – NOT REQUIRED*

## **Interviews**

### **Interview with BP1**

The OIG spoke with BP1, who informed the OIG that the trailer was parked inside Gate 5, which BP1 explained as being in the SE corner and “near the barn”. According to BP1, SC was at this area on Saturday, April 25, 2020 measuring the gate to see if there was enough clearance for the trailer. When looking at the trailer SC allegedly was also heard making comments along the lines of how ‘he just needed to fix a few small things here and there on the trailer’. BP1 indicated that SC’s company has currently been doing contract work at the BioPark. He also commented that FOC is friends with SC.

BP1 believed that it is very likely that the trailer was removed from the BioPark in the early morning hours of Sunday, April 26, 2020. BP1 stated that he worked on Sunday the 26<sup>th</sup>, and when he got to work on that day, the trailer was no longer there. He stated that no property removal slip was provided to security. However, BP1 pointed out that logs are kept at the security gate and everybody, including contractors, must sign in and out.

BP1 followed up with the OIG and disclosed that that he was at Pino Yard on 5/12/2020 and stated that he did not see the trailer there.

### **Interview with BP2**

The OIG contacted BP2 who confirmed that SC was at the BioPark on Saturday, April 25, 2020 measuring the opening of the gate. BP2 believes the trailer in question was removed from the BioPark on Sunday, April 26, 2020. However, he pointed out that he was off work on this date and did not witness the trailer being removed on this date.

BP2 recalled talking with SC about the trailer and commented that the trailer looked really old, so why would SC want it. He stated that SC expressed that the inside of the trailer was really nice and it was something he could utilize. He would just have to fix small things here and there.

BP2 explained that Gate 5 is located towards the back of the zoo and is where most all deliveries are made. He said there is a guard shack there and a gate. BP2 also stated that the guards log who comes in and out of the gate, and that the following information is notated on the logs:

- location;
- person’s name/signature;
- the date;
- the vehicle ID number; *and*

- the City department or company name.

BP2 also stated that the security officer's name is listed at the top of each log sheet. However, he pointed out that the security officers rotate out every two hours and therefore, the guard at the gate is not always the guard whose name is listed at the top of the log sheet.

The OIG asked BP2 if a Property Release Slip was required. BP2 explained that he has heard of Property Release Slips, but he commented that he has not been properly trained since he has been at the BioPark since October 2019.

### **Interview with SC**

The OIG met with SC to discuss the concerns that were brought to the attention of the OIG.

SC shared that his company has been in business for approximately 45 years. He indicated he works mostly with government and has been working off and on with the zoo (BioPark) for years, though he does not have a contract with the BioPark. SC explained that he gets called to the BioPark for "smaller" jobs. For example, SC's company is currently working on replacing the doors on some of the animal cages. His company also recently installed an aquarium.

SC went on to explain that the BioPark has a small amount of funds that they use when they ask people like SC to do small jobs which can be done right away without having to go through the process of paperwork.

SC mentioned FOC and referred to him as the supervisor of the BioPark. According to SC, FOC will often contact him and ask SC to go to the BioPark to discuss various jobs. SC explained that for these jobs he gets a quote together and presents it to FOC. FOC then presents the quote to his boss, and they let SC know whether he gets the job or not. SC indicated there have been times when he was told he is too expensive and he did not get the job.

The OIG asked SC about the trailer he recently removed from the BioPark grounds. SC stated that he had a contract with OCC to remove the trailer. SC further explained that OCC has a contract with the BioPark and they do all the "big stuff", such as an elephant barn that was recently built. According to SC, the trailer he recently removed was in terrible condition and nobody had occupied it for years. SC stated he received the purchase order before he removed the trailer. The BioPark had asked OCC to remove the trailer, and OCC turned around and asked SC to remove the trailer. SC assumed that it was FOC who asked OCC to remove the trailer. SC was paid to remove the trailer and under the same contract was to remove a second trailer once employees have moved out of it. Per this contract, SC was to be paid \$6,000 to remove both trailers. He informed the OIG that he had to purchase new wheels and tires for the first trailer just so he would be able to wheel it out of the BioPark. He shared that the new wheels and tires cost him around \$1,500.

SC stated that he took the trailer over to his lay down yard. He stated that he did not receive a title to the trailer or a bill of sale, and that he was going to have to get this from FOC or somebody else. SC commented that the inside of the trailer is not bad and is fairly nice. The outside of the trailer, however, is in really bad shape. However, he commented that he may try and fix up the outside of the trailer, as he likes doing things like that. SC stated he was paid to remove the trailer and

was also allowed to keep the trailer. He will be allowed to keep the second trailer as well once it is removed, and FOC is supposed to tell him when it can be removed. He understood why the removal of the trailer might have appeared suspicious, but stated that nobody questioned him when he wheeled the trailer out of the BioPark. According to SC, they just looked at him like “see you later”. SC believed the security guard that was at the gate would likely remember SC taking the trailer out. He stated that the security guard knows him and could probably tell the OIG about what occurred if the OIG were to ask.

According to SC, he went and got the trailer early on a Sunday morning in order to avoid a lot of traffic. SC’s son followed him with lights blinking. SC stated he took the trailer to his laydown yard, which is only about three to four miles from the BioPark. The trailer is still currently parked at the laydown yard.

SC stated that this all started a couple months ago when OCC asked SC how much SC’s company would charge OCC to remove the trailers. That is when SC told him \$3,000 a piece, and SC would also be allowed to keep the trailers. OCC then followed up and told SC that as soon as OCC can get him a purchase order, SC could remove the trailers. SC viewed the purchase order as the “legal thing” in order to remove the trailers. SC thought with all of this he was “good to go”. However, he stated looking back, maybe things were not done correctly. Perhaps they were supposed to go through some other process that SC was not aware of.

The OIG informed SC that the usual process of Public Surplus was not followed. SC indicated he did not think any of the parties involved went through Public Surplus, adding “They just told me to do it and I did it. And that’s pretty much it.” SC informed the OIG that if another process has to be done, then he is willing to do that; whatever the process is and whatever it takes, he stated that he is happy to do that. SC commented that perhaps FOC did not know either, because SC is sure that FOC would have told him.

The OIG asked if SC had obtained other items from the BioPark in the past. SC indicated he had not and stated that he had just been working on replacing cages for various exhibits for some time. He stated that even with the surplus steel, they have SC throw it in the BioPark dumpsters. SC does not scrap their steel.

SC commented that he has never had any trouble with his contracts with the BioPark, and that he is always paid. He shared that he has had FOC as his inspector also. FOC will tell SC what needs to be fixed and/or finished before SC is paid. SC described FOC as one of those guys who will tell you what he wants and then you will not see him again until you call him to go have a look at whatever is being worked on. SC has known FOC for approximately five years. However, SC considers his relationship with FOC to be professional and would not consider them to have a personal friendship.

The OIG asked SC if he or anybody with his company has ever worked for the City of Albuquerque in the past. SC stated that back around 1975 or 1976 his company did a rebuild out at the sewer plant.

In a follow-up to the interview, the OIG contacted SC and asked if there was any tag or identification number on the trailer he had removed. SC provided AHCUNO400041. The OIG contacted the New Mexico Motor Vehicle Department (MVD) and provided this identification

number to see if the trailer came back as registered to the City of Albuquerque or another entity or person. There were no results when the MVD did a search on the number.

### **Interview of FOC**

The OIG met with FOC to discuss the concerns that were brought to the attention of the OIG.

FOC discussed the current contract work going on at the BioPark. He talked about the “master plan”, which includes designing an Asia project and an Australia project. A farm is also being designed at the Botanical Gardens. FOC stated that these projects are under design and are contracted out, to include subcontracts. He mentioned that they are also coordinating some “removal of stuff” so the BioPark can form its master plan design.

FOC stated that the company the BioPark is currently contracted with is OCC’s company. He explained that OCC has a contract with the BioPark through the Department of Municipal Development (DMD) to do a lot of the construction at the BioPark. He was not sure if OCC subcontracts with other companies, but commented “I’m sure they do”.

FOC confirmed that an office-type trailer was currently removed from the BioPark grounds. He stated that it was an old office trailer/construction trailer that had been sitting there even before he started working at the BioPark; he stated that he has been working there for 23 years. He stated that it was one of the trailers that had been infested with rats and mice. The trailer was once used as an office for the BioPark’s construction managers, as they used to do construction in house. However, according to FOC, the trailer had not been used in at least ten years; it is one of the trailers that needed to be moved out. FOC stated the one trailer that had already been removed, as well as a second trailer, had been contracted to be moved out. The second trailer is still on BioPark property with some Keepers using it as an office. However, once all necessary arrangements are made, that trailer is going to be removed as well. FOC shared that they are in the process of getting new trailers and new offices ordered, so once the remaining trailer is removed, the new ones will come in and take its place. FOC was not sure where they were in this process.

With regard to the trailer that was recently removed, FOC stated this was under the DMD Project Manager (DMD PM). From what FOC understood, DMD PM had a contract written up with the scope of work. DMD PM then ran this through DMD and then went through the approval process through the Directors for the Cultural Services Department (CSD) to approve the removal of the trailers. FOC thought the approval goes through the Director at the BioPark, and at that point it then goes to the Director for CSD. FOC stated that the removal of the first trailer did not go through the Public Surplus process.

FOC was aware that items which are on the Fixed Assets List do go through the Public Surplus process. The BioPark has gone through that process with items that were on the Fixed Assets List. FOC was not sure if the trailer that was recently removed was on the Fixed Assets List, but he does not think it was. He did not know if the trailer was owned by the City or not.

FOC stated he did not know when arrangements started being made for the removal of the trailers. He guessed that the contract was probably written up sometime in late March or early April 2020. He stated that OCC was the original contractor, but believed that they may have “subbed out” the removal of the trailers to SC’s company. FOC stated that the first trailer was removed from the

BioPark property sometime around late April 2020. He confirmed that he was present when SC was removing the trailer, because power and water had to be disconnected from the trailer. There was also a platform or deck in front of the trailer that was rotted out and had to be removed. FOC claimed that he does not know where the trailer is currently or if SC took ownership of the trailer. When asked if SC kept that trailer that had been removed, FOC stated “That I’m not sure. That I couldn’t say.”

FOC stated that if an item is on the Fixed Assets List, then the normal process is for that item to go through Public Surplus. He shared that the BioPark has had items such as ATVs, and these types of items will be set up through Pino Yard. The BioPark will provide the description of the vehicle or item, the serial number or the VIN of the vehicle. The item(s) will then get approval from the CSD Director; the Director will approve whether the item(s) can “surplused”. Upon approval, Pino Yard will arrange to send a truck to pick up the ATVs and they are hauled off and placed on public surplus, or “whatever they do at that point”.

The OIG asked FOC if the trailers in question should have been put up for auction or surplus. FOC stated that in the beginning it was being looked into, approximately three or four years ago, but from what FOC understood, the trailers were not on a Fixed Assets List at that point. FOC went on to state that the trailers were deemed as not being of value. The OIG pointed out that the second trailer is currently being used, and questioned how that trailer could be deemed as not having value. FOC responded that the second trailer is in “pretty bad shape”, and that is the reason they are trying to get it moved out. He stated that the Keepers have a lot of complaints about the condition of the office (trailer) they are working in. The OIG then asked who would have made the decision to have the trailers removed by OCC instead of the trailers being sent to auction. FOC stated that was all done through DMD PM; DMD is the one that finalized everything as the BioPark was working their master plan and design of everything. According to FOC, DMD PM would have been the one who made the decision to get rid of the trailers and get them off of the BioPark grounds.

FOC confirmed that the trailer that had been removed on April 26, 2020, along with a second trailer, were lumped into one contract to be removed.

The OIG asked FOC what his relationship is with SC, as well as with OCC. FOC stated that his relationship with each of them is strictly professional. He explained that SC does some welding work for the BioPark on the cages. FOC stated that OCC has done prior work at the BioPark, such as constructing the elephant birthing barn.

### **Interview of DMD PM**

DMD PM stated that OCC is the on-call contractor for DMD and is paid out from Gross Receipts Tax (GRT). According to DMD PM, OCC is allowed to subcontract with any company they choose; the City has no legal kind of authority or contract with any of OCC’s subcontractors. The GRT money goes directly to OCC and then OCC pays their subcontractors to do the work.

She admitted that when she was first asked about this trailer, she did not know who had removed the trailer from the BioPark property. DMD PM was aware that removal of the trailer was something that was going to be done, but was not sure how it was going to be done. She stated that the means and methods fall on the contractor, and what the contractor does once the trailer is

put in their possession “is on them”. DMD PM commented that the trailer was “just kind of in the way”. She did not think that the OIG was going to necessarily find this as a line item within OCC’s contract, but it was part of the scope when it was discussed at the job site. DMD PM commented that when you drive around the BioPark, there are a lot of trailers that nobody knows how they got there.

DMD PM explained that when they get contracts based on the City of Albuquerque (City) system they have to follow what is called the “Job Order Contract” (JOC). She further explained that she gives her scope of work to the contractor, which in this case was OCC. That contractor then puts the scope of work into the “JOC system”, which is a requirement of the City. If the amount looks right and the numbers look as close to the work that the contractor is doing (because the JOC system does not necessarily have every line item), then DMD PM approves the cost and the contractor proceeds with the work. According to DMD PM, the contractors “pretty much do” what DMD and the BioPark ask them to do in the scope of work.

The OIG asked about the second trailer that was contracted to be removed and whether this trailer is City property. DMD PM stated that after she heard about the issues that arose with the removal of the first trailer, she asked those individuals who are supposed to keep inventory if the trailers were City-owned. DMD PM was informed no, that the trailers were not on any kind of surplus list, so they could be removed free of any kind of issues. DMD PM commented that these trailers are “so old” and if the trailers were to be demoed “in place”, they will be “sheet metaled and sold for scrap”.

DMD PM was under the impression it was only things that had value over a certain amount that were placed on the Fixed Asset List. With regard to the trailer that had already been removed by SC, DMD PM stated “There is no way that trailer had more than a thousand-dollar value to it. It was so old.”

The OIG asked DMD PM if from her standpoint there was any sort of policy or procedure violation with regard to the removal of the trailers, to which DMD PM stated no. The OIG then asked if it would be acceptable for SC to keep the trailers once they removed them, if that was in the contract. DMD PM stated they do not explicitly say anything like that, because that would be giving property away for their own personal use. Instead, they basically try to say, “you take it away and what you do with it after is on you guys.”

DMD PM provided the OIG with a copy of an email string where DMD PM asks the BioPark Fiscal Program Manager (BP FPM) if he could help to determine the value of the two portable trailers and if approval was needed for removal/demo of the trailers.

The BP FPM informed the DMD PM that the portable trailers are not on the City Fixed Asset list. In addition, the original source of the trailers (i.e., City funds or BP Society) is unknown and therefore, the value of the trailers is unknown. Per the BP FPM, since the portable trailers are not on the Fixed Asset list, it was not necessary to generate any paperwork to remove/demo them.

### **Interview of On-Call Contractor (OCC)**

OCC stated that the BioPark directed him to remove the office trailer. OCC stated that he has a work order to remove the trailer; the BioPark did not want it and he got rid of it.

OCC confirmed that he subcontracted with SC to remove two trailers. He told the OIG that he was contacted just this week and was informed that the second trailer is ready to be removed because the BioPark has a new one that is being put in its place. OCC commented that he is just doing what the BioPark asked.

With regard to the trailers in question, OCC explained that those type of trailers are so old that in his opinion, they are not worth anything and are not secure enough for a job site trailer. He stated that back in the 1980s these types of trailers used to be the thing to have; however, that was 30 – 40 years ago. According to OCC, when he was shown the trailer that was removed on April 26, it had weeds growing all around it and had a “junky, rat infested awning” attached. He indicated that when he was shown the trailer, they did not even have the keys to open the doors; so, he just walked around the outside of the trailer and took pictures. He was told that the BioPark wanted the trailer out of there, so OCC put together a proposal and sent it in with a scope of work, and all was approved for this trailer and the second trailer to be removed. OCC reiterated that he was just doing what the point of contact for his contract asked him to do. It was OCC’s understanding that these trailers were so old that they were left behind by a contractor that did work there in the past, or a similar type of situation.

OCC explained that he has a Job Order Contract (JOC) that he has to follow, and it is pre-priced and itemized based on the unit price. There is no line item in the JOC to remove an office trailer. OCC explained that he then broke it down by square foot and put it in as a demolish building. He mentioned that there is also a storage shed that has to be moved out of the way before they can get to the second trailer to remove it.

OCC stated that he did not want the trailers, and when he put the job together he estimated what it would take to tear them apart. Once OCC got the job, he went out to try and find a cheaper way to get rid of them. SC had the equipment and forklifts and everything to move the trailers. The OIG asked OCC if it was less expensive to move the trailers out than it would be to demolish them, to which OCC stated “Probably, yeah.”

The subcontract between OCC and SC establishes that SC will remove both trailers for \$6,000. OCC confirmed that this did include the cost of labor; he commented that it was a complete job to get rid of the trailers. OCC also stated that SC is not paid for the job until both trailers have been removed. The OIG asked OCC what value he would give each trailer individually. SC stated that he had no idea and it would depend on what those trailers are worth to somebody. SC stated that the trailers are not worth anything to him.

### **Site Visit to BioPark Grounds**

The OIG went out to the BioPark (Zoo) grounds to take a look at the second trailer that was contracted to be removed from the property. The trailer was also a portable office-type building and was still being occupied by some members of Zoo staff.

The OIG could not find any tags or identification numbers for this trailer. However, the trailer was old and in deteriorating condition. The OIG also observed the partial logo of a construction company that appeared to be out of Denver, CO. However, a door had been placed over the first part of the company name, so the complete name of unidentifiable. In addition, a small vent or air

conditioning unit had been placed over where it said “Denver, CO”. It appeared that this trailer may have been left behind by a construction company and/or contractor at some point in time.



The DMD PM planned to replace this trailer with two new smaller trailers in the coming weeks. Members of Zoo staff would then occupy the new trailers.

## CONCLUSION

The OIG was not able to identify if the trailer that was removed from BioPark grounds on April 26, 2020 was City owned. The trailer was not on a Fixed Asset List and amongst those who the OIG spoke with (employees, BioPark Society Director), nobody was able to recall or provide any information as to where the trailer came from.

Because the original source of the trailers is unknown and therefore, the value of the trailers is unknown, and because individuals were aware of the trailers sitting on BioPark property for a number of years, the trailers should have been deemed as abandoned/surplus property and therefore should have been disposed of per City policy.

In conclusion, the OIG recommends:

1. That the BioPark improves their process of keeping records of their inventory and whether items are City-owned or were acquired by other means;
2. That the BioPark ensure that all items are logged on the Fixed Asset list;

3. As specified in Administrative Instruction (AI) No: 6-2, the BioPark should designate a Fixed Assets Liaison if they do not have one already;
4. As specified in AI No: 6-2, the BioPark should designate a Property Disposal Officer if they do not have one already; *and*
5. When the Department of Municipal Development (DMD), or any other department, is going to be involved in BioPark projects, that department needs to verify whether items are City owned property and follow City policies and procedures before having items removed.

The OIG made the following recommendations to the Cultural Services Department (CSD). The Department's responses, in blue, are below each recommendation.

1. The BioPark improves their process of keeping records of their inventory and whether items are City-owned or were acquired by other means.

The BioPark follows all current City procedures as directed by the Department of Finance and Administration and applicable Administrative Instructions to ensure that all required items are included on the Fixed Assets list. Given decades of ongoing operations at the BioPark, staff occasionally identify assets on the premises that pre-date current inventory systems. BioPark leadership will continue to add these to the Fixed Assets list as they are identified.

2. The BioPark ensures that all items are logged on the Fixed Assets list.

The BioPark follows all current City procedures as directed by the Department of Finance and Administration and applicable Administrative Instructions to ensure that all required items are included on the Fixed Assets list. Given decades of ongoing operations at the BioPark, staff occasionally identify assets on the premises that pre-date current inventory systems. BioPark leadership will continue to add these to the Fixed Assets list as they are identified.

3. As specified in Administrative Instruction (AI) No: 6-2, the BioPark should designate a Fixed Assets Liaison if they do not have one already.

There is (and has been) a designated Fixed Assets Liaison for the Cultural Services Department, which includes the BioPark.

4. As specified in AI No: 6-2, the BioPark should designate a Property Disposal Officer if they do not have one already.

There is (and has been) a designated Property Disposal Officer for the Cultural Services Department, which includes the BioPark.

5. When the Department of Municipal Development (DMD), or any other department, is going to be involved in BioPark projects, that department needs to verify whether items are City owned property and follow City policies and procedures before having items removed, demolished and/or disposed of.

Cultural Services Department staff will review relevant City policies, procedures and Administrative Instructions with all City staff working at the BioPark who are involved (or may be involved) with the removal, demolition or disposal of equipment and fixed assets.