



# CITY OF SANTA FE

## Memorandum

**Date:** October 24, 2024

**To:** Governing Body, Public Works and Utilities Committee, Quality of Life Committee, Finance Committee, and Economic Development Advisory Committee

**From:** Daniel Hernandez, Metropolitan Redevelopment Agency, Director <sup>DH</sup><sub>DH</sub>

**Via:** Randy Randall, Interim Community Development Director <sup>RR</sup><sub>RR</sub>

**RE:** A Bill Approving the Sale of Buildings, Improvements, and Land at the Midtown Site, to ASPECT QOZB, LLC.

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### EXECUTIVE SUMMARY:

The City of Santa Fe (“City”) and Midtown Santa Fe Productions QOF, LLC (“Offeror”) entered into an Exclusive Negotiation Agreement on August 4, 2023, in order to negotiate a plan for Offeror to improve and purchase certain parcels of the Midtown Site, located at 1600 St Michaels Drive (“Property”). The proposed bill would approve the City and ASPECT QOZB, LLC (“Developer”), entering into a Development and Disposition Agreement (Agreement) for the Property. The DDA would require a \$5,000,000 payment, in four installments, required development of the property, and community benefits, if Purchaser completes all three phases of the purchase.

The date that the approved DDA goes into effect (“Effective Date”) will be 45 days after the Bill is approved, unless a referendum is held. If a referendum is held and a majority of voters vote to approve the Ordinance, the Effective Date would be the date the election results are certified. If the majority of voters voted to disapprove the Ordinance, the Ordinance would not be effective and the Agreement would become obsolete.

NMSA 1987, Section 3-54-1, requires that the City approve the sale of City-owned property with an Ordinance. This Bill fulfills the City’s requirement to comply with that statute. The purchase price consideration provided in this summary is further explained in a memorandum attached hereto called the Purchase Price Consideration for the Disposition and Development Agreement (DDA) by and between the City and Developer.

### SUMMARY OF DEVELOPMENT AND DISPOSITION AGREEMENT

**A. Introduction.** The Agreement will set forth the terms and conditions of:

- (i) Developer’s obligation to design, develop and construct the Project (defined below) at the Property,



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- (ii) Developer's right to purchase the Property upon completion of the construction and satisfaction of certain related obligations,
- (iii) the timeline, in relation to Developer's obligations, for the City's design and construction of roadway and other public improvements necessary for access to and use of the Project, and
- (iv) the community benefit requirements that are required of Developer and its successors to satisfy after the purchase of the Property (as improved by Developer).

### **B. Project Requirements:**

*Project Overview:* Developer's development and construction at the Property will be completed in three separate phases, as follows:

- ▶ "Phase 1" consists of the demolition of Onate Hall and the major renovation of the buildings currently known as Benildus Hall, Garson Studios (which includes "The Screen"), and Driscoll Hall, for the purpose of operating a state-of-the-art film and multi-media production studio and related office space, a publicly available theater or performance space, and a retail or restaurant space.
- ▶ "Phase 2" will include the construction of a multifamily residential building with at least 99 dwelling units (up to a maximum of 150 dwelling units), of which at least 15% will be affordable units subject to the City's inclusionary housing program.
- ▶ "Phase 3" will include the construction of either (i) a 65,000 square foot (or larger) film and multi-media production studio, or (ii) a comparable development project approved by the Governing Body that is complementary to and supportive of the film and multi-media production uses.

The buildings and other improvements contemplated as being constructed and installed for each Phase are collectively referred to as the "Private Improvements." The Private Improvements and the Property are collectively referred to as the "Project."

*Financial Security:* Developer will be required to provide a guaranty of performance and payment from its principal in connection with the initial Phase and a performance bond and a payment bond to the City with respect to the subsequent Phases, each of which will be in an amount sufficient to cover the cost of the construction of the applicable Private Improvements.

- ### **C. Master Plan Amendment:**
- The uses contemplated for the Project are not all presently permitted under the Master Plan. As a condition precedent to the commencement of any construction at the Property, the MRA Office will need to submit and obtain approval for an amendment to the Master Plan that modifies the permitted uses at the Property to include addition uses previously not included, such as the housing mentioned above. If the additional uses are not approved, Developer will have the right to terminate the Agreement, upon which



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City would return the Developer's deposit and neither the City nor Developer will have any further rights or obligations under the Agreement.

**D. City Right-of-Way Improvements:** The Agreement describes the City's responsibility for designing and constructing the public roadway improvements, storm drainage facilities, and related infrastructure lying within the areas of the Midtown Site that will be designated for public right of way, as described in the RFP. The Agreement describes that the City will use its best efforts to complete the portions of such public improvements necessary for Developer's use and operation of each Phase prior to Developer's completion of such Phase, provided that if the City is unable to timely complete the applicable public improvements, the City will not take any actions to impede the issuance to Developer of a certificate of occupancy for the completed Phase as a result of the City's delay so long as Developer constructs and installs temporary ADA improvements for access to such Phase in compliance with applicable law.

**E. Developer's Purchase of the Property:**

Purchase Price. The purchase price for the Property (the "Purchase Price") to be paid by Developer to the City is \$5,000,000. On the Effective Date of the Agreement, Developer will pay an initial deposit of \$1,000,000 ("Initial Deposit"), which amount is nonrefundable except in the event the amendment to the Master Plan is not approved.

Closing: Following the Initial Deposit, the City will continue to own the fee interest in the Property applicable to each Phase during Developer's construction of the Private Improvements for such Phase. Provided Developer is not in breach of the Agreement, the City will execute and record a quitclaim deed to the Property applicable to any Phase following Developer's receipt of the final certificates of occupancy for such Phase and the City's receipt of an installment payment of a portion of the Purchase Price, in the amount of \$2,250,000 for Phase 1, \$1,250,000 for Phase 2, and \$500,000 for Phase 3.

**F. Community Benefits:**

- ▶ Economic Impact Requirement: Developer is required to cause film production companies operating at the Project to generate direct production expenditures in New Mexico of (i) at least \$30,000,000 during the first five years of the Agreement, and (ii) at least \$150,000,000, by the 15<sup>th</sup> year of the Agreement. If the Project fails to generate expenditures of at least the amounts set forth above, Developer will be required to pay a fee to the City of \$25,000 per year per non-compliance event.
- ▶ Economic Opportunity Requirement: Developer is required to use commercially reasonable efforts to coordinate among local community organizations and certain employers operating at the Project from time to time to post or advertise employment opportunities available with such employers at the Project to local residents.



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- ▶ Commercial Use Requirement: Developer is required to use commercially reasonable efforts to secure and maintain tenants for the retail space at Driscoll Hall that will continuously operate businesses open to the public during normal business hours.
- ▶ Film Internship Requirement: Developer is required to require that the production companies operating at the Property offer and fill an aggregate total of 20, six-week internships per year in partnership with a New Mexico-based film school or internship program, adjusted proportionally in relation to the percentage of leased studio space.
- ▶ Cultural Elements Requirement: Developer will (i) provide local community organizations access to the theater screen for at least eight days per year, (ii) coordinate with local community organizations to include within the programming for the theater space at least four events per year that promote the interests of a group historically subject to discrimination or otherwise underrepresented or of a cause supportive of any of such group's interests.
- ▶ Educational Space Covenant: The City will record a covenant against the Property requiring that at least 3,000 square feet of space in one of the buildings be used exclusively for educational uses (e.g., classroom study).

**G. Default Remedies:** If Developer defaults in its performance of any obligation under the Agreement beyond applicable notice and cure periods, in addition to other remedies available to the City, the City will have the right to terminate the Agreement, upon which the City may retake possession of the Property.

**H. Right of First Refusal:** During the five-year period following the completion of Phase I, if Developer receives an offer for the sale of any portion of the Property to a third-party that Developer desires to accept, the City will have a right of first refusal to purchase such portion of the Property on the terms and conditions set forth in the third-party offer.

### ATTACHMENTS:

Bill

FIR

Memo Attachment - Memorandum: Purchase Price Consideration

Memo Attachment - Memorandum: Lease Summary