



AGENDA

REGULAR MEETING OF
THE GOVERNING BODY
FEBRUARY 10, 2021
4:00 PM
ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR GOVERNING BODY MEETING

Attendance: In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings of more than five (5) people, the Governing Body meeting will be conducted virtually.

Viewing: Members of the public may view the meeting through the Government Channel on Comcast Channel 28 and Comcast HD928 or may stream the meeting live on the City of Santa Fe's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. The YouTube live stream can be accessed at this address from most smartphones, tablets, or computers.

The video recording of this and all past meetings of the Governing Body will also remain available for viewing at any time on the City's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. Staff is available to help members of the public access pre-recorded Governing Body meetings online at any time during normal business hours. Please call 955-6521 for assistance.

Radio Broadcast: The meeting can be heard on radio station KSFR 101.1.

Agenda: The agenda for the meeting will be posted at <https://www.santafenm.gov>.

Written Comments: The public may submit written comments on any of the legislative items to be considered on the *Consent Agenda*, *Discussion Agenda*, *Public Hearings* or *Petitions From the Floor* through 1:00 p.m. the day of the meeting, via the virtual comment "button" at <https://santafe.primegov.com/public/portal>.

Public Comment: To provide live public comment during *Petitions from the Floor* or *Public Hearings*, you must join the Zoom meeting by internet or phone, as follows:

Internet: To join the Zoom meeting on the internet using a computer, laptop, smartphone, or tablet, use the following link: <https://santafenm-gov.zoom.us/j/91467554832?pwd=Z1N5VW04OUNNcjBqaWVWMFU1VFJ1Zz09>. **Passcode: 410212**

Attendees should use the "Raise Hand" function to be recognized by the Mayor to speak at the appropriate time.

Phone: To join the Zoom meeting using a phone, use the following phone numbers and Webinar ID:
US: 1 (346) 248-7799 - Webinar ID: 914 6755 4832 - Passcode: 410212

Phone attendees should press *9 to use the "Raise Hand" function to be recognized by the Mayor to speak at the appropriate time.



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AFTERNOON SESSION - 4:00 P.M.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

Councilor Abeyta

3. **SALUTE TO THE NEW MEXICO FLAG**

Councilor Vigil Coppler

4. **INVOCATION**

Councilwoman Villarreal

5. **ROLL CALL**

6. **APPROVAL OF AGENDA**

7. **APPROVAL OF CONSENT CALENDAR**

8. **APPROVAL OF MINUTES**

- a. Regular Governing Body Minutes – January 27, 2021
- b. Special Governing Body Meeting – January 28, 2021

9. **PRESENTATIONS**

- a. COVID-19 Update Pursuant to Resolution 2020-51. (Jarel LaPan Hill, City Manager, jlpanhill@santafenm.gov, 955-6848 and Kyra Ochoa, Interim Director of Community Health and Safety, krochoa@santafenm.gov, 955-6603) **INFORMATION ONLY**
- b. Department Overview of Santa Fe River Storage and Release Requirements Under the Rio Grande Compact. (Jesse Roach, Water Division Director,



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jdroach@santafenm.gov, 955-4309 and Marcos Martinez, Assistant City Attorney, mdmartinez@santafenm.gov, 955-6502) **INFORMATION ONLY**

- c. Economic Development Department Overview of the Midtown Bi-Weekly Development Update Report (Rich Brown, Director, Community & Economic Development Department, rdbrown@santafenm.gov, 955-6625 and Daniel Hernandez, Project Director at Proyecto LLC, Andrea Salazar, Assistant City Attorney, asalazar@santafenm.gov, 955-6303) **INFORMATION ONLY**

10. CONSENT CALENDAR

- a. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of \$205,000 from the Cash Balance in Water Enterprise Fund to the Transmission and Distribution Operating Supplies; (5050386.530200).
(Randy Lopez, Transmission and Distribution Supervisor, rjlopez@santafenm.gov, 955-4246)

COMMITTEE REVIEW:

Public Works and Utilities Committee: 01/25/2021

Finance Committee: 02/01/2021

Governing Body: 02/10/2021

- b. **Request to Publish Notice of Public Hearing on March 10, 2021.**
Consideration of Bill No. 2021-__: An Ordinance Amending Section 7-1.1 SFCC 1987 to Adopt the Newest Version of the International Energy Conservation Code as Adopted and Amended by the State of New Mexico Construction Industries Division; and Amending Section 7-4.2 SFCC 1987, City of Santa Fe Green Building Code, to Update Code References in Conjunction with the Adoption of the 2018 International Energy Conservation Code as Adopted and Amended by the State of New Mexico Construction Industries Division. (Councilor Cassutt-Sanchez and Councilor Abeyta) (Jason Kluck, Assistant Planning and Land Use Director, jmkluck@santafenm.gov, 955-6729)

COMMITTEE REVIEW:

Quality of Life Committee: 02/3/21

Public Works and Utilities Committee: 02/8/21

Governing Body (request to publish): 02/10/21

Governing Body (public hearing): 03/10/21



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11. DISCUSSION/ACTION ITEMS

- a. CONSIDERATION OF RESOLUTION NO. 2021-____. (Councilor Villarreal and Councilor Lindell)

A Resolution Requesting the National Nuclear Security Administration Prepare and Complete a New Site-Wide Environmental Impact Statement for Los Alamos National Laboratory Before Expanding Plutonium Pit Production at the Facility. (Jesse Guillen, Legislative Liaison, jbg Guillen@santafenm.gov, 955-6518)

COMMITTEE REVIEW:

Quality of Life Committee: 02/3/21

Governing Body: 02/10/21

- b. CONSIDERATION OF RESOLUTION NO. 2021-____. (Councilor Vigil Coppler, Councilor Garcia, and Councilor Villarreal)

A Resolution Requiring Governing Body Approval Prior to Announcing the Availability of Any City-Owned Land, Buildings, or Other Real Property for Sale. (Andrea Salazar, Assistant City Attorney; asalazar@santafenm.gov, 955-6303 and Rich Brown, Economic and Community Development Director, rdbrown@santafenm.gov, 955-6625)

COMMITTEE REVIEW:

Public Works and Utilities Committee: 02/8/21

Governing Body: 02/10/21

- c. Request for Approval of Amendment No. 3 to the Memorandum of Agreement between Santa Fe County and the City of Santa Fe for the Public Safety Radio Communications System Solutions Project for Implementation of Any Upgraded Communication System. This Amendment is to Extend the Term Date to December 31, 2020 to June 30, 2021. (Brian Moya, Assistant Chief, bjmoya@santafenm.gov, 955-3111)

COMMITTEE REVIEW:

Governing Body: 02/10/21

- d. Request for Approval of Amendment #2 to Lease Agreement #20-0257 by and between the City of Santa Fe and Garson Studios, Ltd., to Extend the Term



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of the Lease by 18 Months or Until August 26, 2022. (Sam Burnett, Public Works Property Maintenance Manager, jsburnett@santafenm.gov, 955-5933)

COMMITTEE REVIEW:

Governing Body: 02/10/21

- e. CONSIDERATION OF RESOLUTION NO. 2021-_____. (Councilor Cassutt-Sanchez, Councilor Villarreal, Councilor Abeyta, Councilor Rivera, and Mayor Webber)

A Resolution Supporting Legislation at the New Mexico Legislature Adopting a Paid Sick Leave Act that Allows Employees to Accrue and Use Paid Sick Leave. (Jennifer Faubion, Council Liaison, jrfaubion@santafenm.gov, 955-6033; Jesse Guillen, Legislative Liaison: jbg Guillen@santafenm.gov 955-6518)

COMMITTEE REVIEW:

Governing Body: 02/10/21

- f. CONSIDERATION OF RESOLUTION NO. 2021-_____. (Councilor Lindell, Councilor Abeyta, Councilor Cassutt-Sanchez, and Mayor Webber)

A Resolution Urging the New Mexico Legislature to Hold New Mexico School Districts and Charter Schools Harmless for Decreased Enrollment in the 2020-2021 School Year Resulting From the COVID-19 Pandemic and to Maintain Funding at 2019-2020 Levels. (Julie Sanchez, Children and Youth Division Director, jjsanchez@santafenm.gov, 955-6678)

COMMITTEE REVIEW:

Governing Body: 02/10/21

12. **MATTERS FROM THE CITY MANAGER**

13. **MATTERS FROM THE CITY ATTORNEY**

EXECUTIVE SESSION

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(7), Attorney-Client Privileged Discussion Regarding Threatened and Pending Litigation in Which the City of Santa Fe Is a Party, Including, but not Limited to, a Discussion Regarding a Threatened Tort Claims Act Case. (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)



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14. **MATTERS FROM THE CITY CLERK**
15. **COMMUNICATIONS FROM THE GOVERNING BODY**

EVENING SESSION - 6:00 P.M.

16. **ROLL CALL**
17. **PETITIONS FROM THE FLOOR**
18. **APPOINTMENTS**
 - a. Economic Development Advisory Committee
 - b. Request for Approval of Appointment of Municipal Court Pro Tem Judge Pursuant to §2-3.4(C) SFCC 1987: Chad Chittum. (Judge Virginia Vigil, vmvigil@santafenm.gov, 955-5054)
19. **PUBLIC HEARINGS**
20. **ADJOURN**

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been considered prior to 11:30 p.m. and the Governing Body does not vote to extend the meeting, such items shall be postponed to a subsequent meeting, provided that the date, time and place of such meeting is specified at the time of postponement.

NOTE: New Mexico law requires the following administrative procedures be followed when conducting “quasi-judicial” hearings. In a “quasi-judicial” hearing all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross-examination. Witnesses have the right to have an attorney present at the hearing.

Persons with disabilities in need of accommodations, contact the City Clerk’s office at 955-6521, five (5) working days prior to meeting date.

UPCOMING PUBLIC HEARINGS

Meeting Date – February 24, 2021

Publication Date – February 2, 2021

CONSIDERATION OF BILL NO. 2021-1. ADOPTION OF ORDINANCE NO. 2021-____. (Councilor Rivera)



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An Ordinance Relating to the City of Santa Fe Uniform Traffic Ordinance (“UTO”); Amending Various Sections to Insert a Clause Stating that a Person Who Violates a Provision of the Particular Section is Guilty of a Penalty Assessment Misdemeanor; Creating a New Subsection 12-6-12.2A to Establish a Charge for Driving While Intoxicated with a Minor in the Vehicle; Amending Subsection 12-6-12.6 to Remove References to Driving When Privilege to do so Has Been Revoked; Creating a New Subsection 12-6-12.6A to Establish a Charge for Driving While License is Administratively Suspended; Creating a New Subsection 1-6-12.6B to Establish a Charge for Driving When the Privilege to do so Has Been Revoked; Amending Subsection 12-6-13.11 to Establish a Fine for Littering; Amending Subsection 12-10-4.1 to Permit the Use of a Portable Electronic Device to Show Proof of Insurance; Amending Schedule A of the UTO to Add the Fines Associated with the Addition of the Penalty Assessment Misdemeanor Provisions; and Amending Section 24-1.1 SFCC 1987 to Add the UTO as an Exhibit A to the end of Chapter 24, SFCC 1987. (Kyle Hibner, City Prosecutor, kjhibner@santafenm.gov, 955-5195)

COMMITTEE REVIEW:

Finance Committee: 01/19/21

Quality of Life Committee: 01/20/21

Governing Body (Request to Publish): 01/27/21

Governing Body (Public Hearing): 02/24/21

CONSIDERATION OF BILL NO. 2021-2. ADOPTION OF ORDINANCE NO. 2021-____. (Mayor Alan Webber, Councilor Lindell and Councilor Rivera)

An Ordinance Approving Global Management Performance Contract with Dalkia Energy Solutions, LLC, Subject to City Council Approval of a Separate Financing Transaction to Finance the Cost of the Global Management Performance Contract. (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, bjfluetsch@santafenm.gov, 955-6885)

COMMITTEE REVIEW:

Public Works and Utilities Committee: 01/25/21

Governing Body (Request to Publish): 01/27/21

Finance Committee: 02/15/21

Governing Body (Public Hearing): 02/24/21

CONSIDERATION OF BILL NO. 2021-3. ADOPTION OF ORDINANCE NO. 2021-____. (Mayor Alan Webber, Councilor Lindell and Councilor Rivera)

An Ordinance Accepting Investment Grade Audit Report and Approving Energy Savings Performance Contract with Yearout Energy Services, LLC, Subject to City Council Approval of a Separate Financing Transaction to Finance the Cost of the Energy Savings Performance Contract. (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, bjfluetsch@santafenm.gov, 955-6885)

COMMITTEE REVIEW:

Public Works and Utilities Committee: 01/25/21

Governing Body (Request to Publish): 01/27/21

Public Works and Utilities Committee: 02/08/21

Finance Committee: 02/15/21

Governing Body (Public Hearing): 02/24/21

CONSIDERATION OF BILL NO. 2021-4. ADOPTION OF ORDINANCE NO. 2021-4. (Mayor Alan Webber, Councilor Lindell and Councilor Rivera)

An Ordinance Approving Lease-Purchase Agreement and Escrow Agreement with Sterling National Bank for the Purpose of Financing the Installation of Energy Efficiency Measures in City Facilities Pursuant to the Energy Savings Performance Contract with Yearout Energy Services, LLC and the Global Management Performance Contract with Dalkia Energy Solutions, LLC. (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, bjfluetsch@santafenm.gov, 955-6885)

COMMITTEE REVIEW:

Public Works and Utilities Committee: 01/25/21

Governing Body (Request to Publish): 01/27/21

Public Works and Utilities Committee: 02/08/21



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Finance Committee: 02/15/21
Governing Body (Public Hearing): 02/24/21

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Governing Body
January 27, 2021

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4. Invocation	Led by Councilor Romero-Wirth	1
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8. Approval of Minutes		
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14. Executive Session Action Items		
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17. Roll Call	Quorum Present	18
18. Petitions from the Floor	None	18
19. Appointments		
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20. Public Hearings	None	19
21. Adjournment	Adjourned at 7:05 pm	19

**Minutes of the
Regular Meeting of the Governing Body
Wednesday, January 27, 2021
Virtual Meeting**

1. CALL TO ORDER

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Alan Webber, on Wednesday, January 27, 2021, at approximately 4:03 p.m., at the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico as a virtual meeting.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Councilor Cassutt-Sanchez.

3. SALUTE TO THE NEW MEXICO FLAG

The Salute to the New Mexico Flag was led by Councilor Lindell.

4. INVOCATION

The Invocation was led by Councilor Romero-Wirth.

Councilor Villarreal remembered Maria Perea, taken by COVID, Mother of her childhood friends and she left seven children. She worked for DMV, sang in a choir and was a talented painter. She also remembered Richard Distour, who died from COVID on his 91st birthday the day when he was to be vaccinated. He is survived by wife and family. She also remembered Pete Gurule, who was killed in accident at 40 years of age. He was the father of two, a DJ. Gurule. She read a poem that included, "Life is such a blessing and death such a thief..."

Councilor Vigil Coppler gave condolences to the family of Oscar Olevelo, who had worked at the New Mexico Supreme Court. He was a cyclist and runner who beat cancer for a while, and it came back, and he died last Sunday.

Councilor Lindell remembered and sent condolences to Mike and Jenny Meyer at the passing of their daughter. She served with him on the Planning Commission.

The Governing Body observed a moment of silence for those who have recently died and their grieving families and those suffering from COVID or other diseases.

5. ROLL CALL

Roll call indicated the presence of a quorum remotely, as follows:

Members Present Remotely

Mayor Alan Webber
Councilor Roman "Tiger" Abeyta
Councilor Jamie Cassutt-Sanchez
Councilor Michael J. Garcia
Councilor Signe Lindell
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor JoAnne Vigil Coppler
Councilor Renee D. Villarreal

Members Excused

Other Participants Attending Remotely

Jarel LaPan Hill, City Manager
Erin McSherry, City Attorney
Kristine Bustos-Mihelcic, City Clerk
Kyra Ochoa, Community Services Director
Regina Wheeler, Public Works Director
Leroy Pacheco, City Engineer
Andrew Padilla, Police Department Chief
Paul Babcock, Fire Department Chief
Carl Boaz, Council Stenographer

6. APPROVAL OF AGENDA

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Lindell, to approve the agenda as published.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

7. APPROVAL OF CONSENT CALENDAR

Councilor Villarreal asked to be listed as a cosponsor on item 10-a.

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Villarreal, to approve the Consent Calendar as amended with Item 10(a) pulled for discussion.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

8. APPROVAL OF MINUTES

a. Special Governing Body Meeting – January 4, 2021

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Lindell, to approve the minutes of January 4, 2021 as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

b. Regular Governing Body Meeting – January 13, 2021

Councilor Villarreal on page 25, two names of public were not included Melissa Mascareñas and Virgil last name is Vigil.

Page 31 where she is speaking, she noted some things were not portrayed right, and asked to add in the middle of the paragraph where it said, “She also recognized that the process was more than monuments but of people...” And it should include, “And to be honest, people in our community have felt *invisiblized* and, for various periods, through various periods of our recent history and present day.” She thought that caught the gist of it.

There were no other changes.

MOTION: Councilor Villarreal moved, seconded by Councilor Vigil Coppler, to approve the minutes of January 13, 2021 as amended.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

9. PRESENTATIONS

- a. Department Update on Phase 1-A Arroyo Chamiso Crossing Study. (Regina Wheeler, Public Works Department Director, rawheeler@santafenm.gov, 955-6622) **INFORMATION ONLY**

Ms. Bustos Mihelcic introduced this presentation.

Director Wheeler noted other people present in support of this presentation. Leroy Pacheco and people from WSC were available to answer questions. She just wanted to update the Governing Body on this important project that affects our quality of life. We just completed phase 1- A – public engagement and assessment of alternatives including transportation in our City. The document provided on design shows that we have some funding moving into design phase from impact fees and the City CIAC approved them. It is being done in a way that makes the project eligible for federal funding. We are now getting feedback on the next phase and gearing up for long-term.

Mr. Pacheco thanked Mayor and Director Wheeler and offered to use his time answering questions. We are in the beginning phases of public involvement. He shared his screen showing the project phases and the area it covers around Rodeo Road, Cerrillos Road, Zafarano, and Avenida de Las Campanas. He pointed out the bicycle route. In the study, the comparison of alternatives meeting had about 150 participants. He briefly described each of the three alternative routes. He explained that the Environment Assessment has been conducted and added that there will be an acequia underpass. He said the other people working on this endeavor, could answer questions at this point.

Councilor Vigil Coppler commented that she and Councilor Harris had a meeting at GCCC that was well attended, as well as a second one. They met with HOAs in the area, and from that, were able to make suggestions to John Romero, Director Wheeler, and Mr. Pacheco to make it the best choice. It is a great plan although not everybody agreed. Former Councilor

Harris was very adamant about getting this project back on track. She was hopeful we could see it through to completion and get adequate traffic control there.

Councilor Rivera asked if the alternate routes were based on recommendations for Alternative A or were just options we have.

Mr. Pacheco said the three alternatives were proposed to decide on the best way for connections from Richards and how we came with Alt A, B, and C.

Councilor Rivera concluded there was no recommendation on which is best.

Mr. Pacheco said they followed the technical analysis on each and, based on neighborhood and public involvement in discussion of connections, we are currently looking at Alt B for recommendation.

Councilor Rivera asked about Fire Chief negotiations for crossing NM Game and Fish property and if they still own that entire property.

Mr. Pacheco observed that so much has changed in the last year. They are listed as a stakeholder in the packet. He could get more detail but knew Game and Fish were aware of it. He just didn't know the level of detail in the discussion on that property. But he pointed out that as they move forward, all property owners will be notified of the impact.

Mayor Webber remembered the Convention Center in-person briefing was packed and COVID was just starting to happen. The discussion was lively and very thoughtful. He appreciated seeing this briefing tonight. He asked Director Wheeler and Mr. Pacheco to keep the Governing Body updated. He agreed that Councilor Harris always wanted it moving forward. There would be great traffic benefits and keeping the community and Governing Body involved is important.

10. CONSENT CALENDAR

- a. CONSIDERATION OF RESOLUTION NO. 2021-7. (Mayor Webber)
A Resolution in Support of Senate Resolution 372 and House Resolution 835 and in Support of the 30 by 30 Campaign to Protect 30 Percent of Lands and Ocean by 2030. (Neal Denton, Sustainability Planner, nhdenton@santafenm.gov, 955-2229)

COMMITTEE REVIEW

Quality of Life Committee – 01/20/21

Public Works and Utilities Committee – 01/25/21

- b. Request for Approval of Buckman Direct Diversion Shared Pool Agreement with Santa Fe County. (Jesse Roach, Water Division Director, jdroach@santafenm.gov, 955-4309)

COMMITTEE REVIEW:

Public Works and Utilities Committee: 01/11/21

Finance Committee: 01/19/21

- c. Request for Approval of Amendment No. 3 in the Amount of \$570,000 to Original Contract No. 19-0031 for On-Call Construction with GM Emulsion LLC. (Randy Lopez, Transmission and Distribution Supervisor, rjlopez@santafenm.gov, 955-4246)

COMMITTEE REVIEW:

Public Works and Utilities Committee: 01/11/21

Finance Committee: 01/19/21

- d. Request for Approval of a Budget Amendment Resolution (BAR) from Cash Balance in Water Enterprise Fund to Fund the GM Emulsion LLC. Amendment No. 3 for On-Call Paving. (Randy Lopez, Transmission and Distribution Supervisor, rjlopez@santafenm.gov, 955-4246)

COMMITTEE REVIEW:

Public Works and Utilities Committee: 01/11/21

Finance Committee: 01/19/21

- e. Request for Approval of Wastewater Collections Department Replacement Vehicle in the Total Amount of \$80,859.85 for Crane Assisted Sewer Repairs; Chalmers Ford Commercial Vehicles. (Michael Dozier, Wastewater Director, mldozier@santafenm.gov, 955-4642)

COMMITTEE REVIEW:

Public Works and Utilities Committee: 01/11/21

Finance Committee: 01/19/21

- f. Request for Approval of a Budget Amendment Resolution (BAR) to Move Funds from the Cash Balance WWMD Enterprise to the Wastewater Collections Vehicles Fund. (5000362.570950) to Purchase Replacement Unit for Fixed Asset No. 52913, 2007 F450 4X4 with Crane. (Mike Dozier, Wastewater Division Director, mldozier@santafenm.gov, 955-4642)

COMMITTEE REVIEW:

Public Works and Utilities Committee: 01/11/21

Finance Committee: 01/19/21

- g. Request for Approval of Amendment No. 3 to Mountain River's 4-Year Contract Adding Additional Funding Through June 30, 2021 in the Amount of \$350,000. (Nancy Jimenez Utility Billing Division Director, nljimenez@santafenm.gov, 955-4364)
1. Request for Approval of Budget Amendment Resolution to Fund Amendment No. 3 to Mountain River's 4-Year Contract.

COMMITTEE REVIEW:

Public Works and Utilities Committee: 12/14/20
Finance Committee: 01/19/21

- h. Request for Approval of a BAR to Move Funds from the Cash Balance Enterprise Funds: Water Fund 505 in the Amount of \$100,000 and WWMD 500 in the Amount of \$100,000 to the Affordable Housing Trust Fund (2402750.501500) to Reimburse the Developer of the Siler Yard Apartment Community for the Cost of the Water Infrastructure for a Total Amount of \$200,000. (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov, 955-6346)

COMMITTEE REVIEW:

Public Works and Utilities: 12/14/2020
Finance Committee: 01/19/2021

- i. CONSIDERATION OF RESOLUTION NO. 2021-8. (Councilor Garcia and Councilor Vigil-Coppler)
A Resolution Re-Establishing the Bicycle and Trail Advisory Committee. (Romella Glorioso-Moss, Project Administrator, rsloriosomoss@santafenm.gov, 955-6623)

COMMITTEE REVIEW:

Finance Committee: 01/19/21
Quality of Life Committee: 01/20/21

- j. **Request to Publish Notice of Public Hearing on February 24, 2021.**
Consideration of Bill No. 2021-1: An Ordinance Relating to the City of Santa Fe Uniform Traffic Ordinance ("UTO"); Amending Various Sections to Insert a Clause Stating that a Person Who Violates a Provision of the Particular Section is Guilty of a Penalty Assessment Misdemeanor; Creating a New Subsection 12-6-12.2A to Establish a Charge for Driving While Intoxicated with a Minor in the Vehicle; Amending Subsection 12-6-12.6 to Remove References to Driving When Privilege to do so Has Been Revoked; Creating a New Subsection 12-6-12.6A to Establish a Charge for Driving While License is Administratively Suspended; Creating a New Subsection 1-6-12.6B to Establish a Charge for Driving When the Privilege to do so Has Been Revoked; Amending Subsection 12-6-13.11 to Establish a Fine for

Littering; Amending Subsection 12-10-4.1 to Permit the Use of a Portable Electronic Device to Show Proof of Insurance; Amending Schedule A of the UTO to Add the Fines Associated with the Addition of the Penalty Assessment Misdemeanor Provisions; and Amending Section 24-1.1 SFCC 1987 to Add the UTO as an Exhibit A to the end of Chapter 24, SFCC 1987. (Councilor Rivera) (Kyle Hibner, City Prosecutor, kjhibner@santafenm.gov, 955-5195)

COMMITTEE REVIEW:

Finance Committee: 01/19/21

Quality of Life Committee: 01/20/21

Governing Body (Request to Publish): 01/27/21

Governing Body (Public Hearing): 02/24/21

11. DISCUSSION/ACTION ITEMS

- a. Request for Approval of a Memorandum of Understanding with the Santa Fe Public Schools, No Financial Responsibility, Volunteer Station Agreement for the Foster Grandparent Program; Santa Fe Public Schools. (Anya Alarid, Interim Program Manager, aalarid@santafenm.gov, 955-4744)

Ms. Bustos-Mihelcic read the caption for this request.

Councilor Garcia recused himself from this item and left the meeting room.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Rivera, to approve the MOU with the Santa Fe Public Schools as requested.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None. Councilor Garcia was not present for the vote.

Councilor Garcia rejoined the bench after the vote.

- b. **Request to Publish Notice of Public Hearing on February 24, 2021.**

Consideration of Bill No. 2021-2:

An Ordinance Approving Global Management Performance Contract with Dalkia Energy Solutions, LLC, Subject to City Council Approval of a Separate Financing Transaction to Finance the Cost of the Global Management Performance Contract. (Mayor Alan Webber, Councilor

Lindell and Councilor Rivera) (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, bjfluetsch@santafenm.gov, 955-6885)

COMMITTEE REVIEW:

Public Works and Utilities Committee – 01/25/21

Governing Body (Request to Publish) – 01/27/21

Finance Committee – 02/15/21

Governing Body (Public Hearing) – 02/24/21

Ms. Bustos-Mihelcic read the caption for this item.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve Bill No. 2021-2, public notice of hearing as requested.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

c. **Request to Publish Notice of Public Hearing on February 24, 2021.**

Consideration of Bill No. 2021-3:

An Ordinance Accepting Investment Grade Audit Report and Approving Energy Savings Performance Contract with Yearout Energy Services, LLC, Subject to City Council Approval of a Separate Financing Transaction to Finance the Cost of the Energy Savings Performance Contract. (Mayor Alan Webber, Councilor Lindell, and Councilor Rivera) (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, bjfluetsch@santafenm.gov, 955-6885)

COMMITTEE REVIEW:

Public Works and Utilities Committee – 01/25/21

Governing Body (Request to Publish) – 01/27/21

Finance Committee – 02/15/21

Governing Body (Public Hearing) – 02/24/21

Ms. Bustos-Mihelcic read the caption for this item.

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Lindell, to approve Bill No. 2021-3, notice of public hearing, as requested.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

d. **Request to Publish Notice of Public Hearing on February 24, 2021.**

Consideration of Bill No. 2021-4:

An Ordinance Approving Lease/Purchase Agreement and Escrow Agreement with Sterling National Bank for the Purpose of Financing the Installation of Energy Efficiency Measures in City Facilities Pursuant to the Energy Savings Performance Contract with Yearout Energy Services, LLC and the Global Management Performance Contract with Dalkia Energy Solutions, LLC. (Mayor Alan Webber, Councilor Lindell, and Councilor Rivera) (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, bjfluetsch@santafenm.gov, 955-6885)

COMMITTEE REVIEW:

Public Works and Utilities Committee – 01/25/21

Governing Body (Request to Publish) – 01/27/21

Finance Committee – 02/15/21

Governing Body (Public Hearing) – 02/24/21

Ms. Bustos-Mihelcic read the caption for this item.

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Lindell, to approve Bill No. 2021-4, notice of public hearing, as requested.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

12. **MATTERS FROM THE CITY MANAGER**

a. Covid Updates

Manager LaPan Hill noted the COVID-19 report was in the packet. Today, Santa Fe County had a 20% decrease and positivity was down to about 6%. City numbers are decreasing. The number of calls at the Police Department went down. The Fire Department had 90 calls in the last period and 61 this period.

The work is important to continue. We only had two new cases within the City. The controls in place need to keep going. Operation Health and Safety has a dedicated team working in some areas where repeated calls were received. They will continue enforcement. The City is working closely with the Department of Health on vaccinations and offered the Convention Center when they are ready with vaccination clinics. With supply and demand as it is now, we need to get people registered at the state website. We have weekly meetings with them and when we get more vaccine, will have more vaccinations.

The other report received and in the packet was the November GRT report. She stood for questions.

Councilor Romero-Wirth wanted to be clear that we, as a City, are in a supportive role waiting for Federal and State Government to provide us with whatever we need, and our role is not to give shots. We won't do that. Correct?

Manager LaPan Hill replied that at this point, it is correct. We have offered the Fire Department to help and whatever they need but the City has no role in vaccinating.

Councilor Cassutt-Sanchez noticed, in looking at City facilities, she wanted the Governing Body to consider preventing barriers and challenges for the vaccination sites. She understood using the Convention Center, but there are many barriers in this part of town. It needs to be considered when partnering with the State. She was grateful for Operation Health and Safety and wondered how it has helped. She was confused about the difference of the COVID information and the COVID masks. She asked if it was the volume of people involved.

Chief Padilla said it should be labeled as a "COVID-19 Mask Call" that was called into the RECC. The County lists it differently but should have been shown as a mask violation but is difficult to go back and correct it.

Councilor Cassutt-Sanchez asked if that meant those five warning cases were reported or if just five people were issued a warning. She wanted to understand how we categorize them.

Chief Padilla responded that they were all documented. He has a count on verbal warnings given to people who might be walking a dog, playing basketball, or riding a bicycle and when the officer observes that, he or she gives them a face covering they can carry with them.

Councilor Cassutt-Sanchez asked why we would not issue a citation.

Chief Padilla said he could not take away the officer's discretion. The first offense is a written warning and the second is a fine of \$50.

Councilor Cassutt-Sanchez suggested clarifying that in the February report.

Councilor Cassutt-Sanchez had a question about PPE distribution for Kyle, but he was not online.

Councilor Cassutt-Sanchez noted we are in a weird period with decreasing numbers that give a false sense of security and we need to continue being responsible.

Councilor Rivera asked about serving the schools.

Director Ochoa said DOH provides for the schools.

Councilor Rivera wondered if the Fire Department could help with a facility.

Chief Babcock said the Fire Department is standing by at the ready and just waiting for the go ahead. The Fire Department could give vaccinations, if needed.

Councilor Rivera was glad to hear that. He agreed with Councilor Cassutt-Sanchez on needed transportation needed. And if called upon, to prioritize use of the Southside Library since we have been one of the highest areas in contracting the virus.

He asked Director Ochoa re supplies, if Directors are staffed with sufficient supplies, whether the City would make supplies available outside the City Staff.

Director Ochoa agreed and we have a network of nonprofits, the Office of Emergency Management, and other ways.

Councilor Rivera reasoned that since it looks like the numbers have decreased since last time, he would hate for the City to remain overstocked.

Director Ochoa agreed. From what Kyle said, they have other sources of PPE.

Councilor Villarreal thought it appeared this was an update of a different time period from the last report. She asked if it is the most current report.

Manager LaPan Hill said it is because she is reporting at every regular Council meeting.

Councilor Villarreal didn't understand the Fire Department information. The information appeared to be the same as last time. She was curious if it was just copied.

Chief Babcock said the last report was 91 calls, down from 93 previously. There were 23 transports last time and ten transports this time. He added that Destination is Santa Fe and Transport could be transporting anywhere.

Mayor Webber said he spent some time with Ms. Montoya at Christus St. Vincent Hospital that heard that supplies are underperforming, and she asked the City to be patient. We want people to get vaccinated and there is some frustration. She asked that people not call the hospital to take it out on folks who answer the phone. President Biden opened the medicine cabinet and found it was empty, so he is working on that through the Industry Production Act. We all must take our turn. He noted a six-hour maximum for the reagent in the Pfizer vaccine to be able to use it. We really want to be responsive with better updates when we get them, to pass that along for those anxious to be vaccinated.

13. **MATTERS FROM THE CITY ATTORNEY**

Ms. McSherry recommended going into executive session to consider discussing the matters listed on the agenda.

EXECUTIVE SESSION

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(7), Attorney-Client Privileged Discussion Regarding Threatened and Pending Litigation in Which the City of Santa Fe Is a Party, Including a Quarterly Litigation Update and Discussion of a Proposed Amendment to the Settlement Agreement between the City of Santa Fe, Century Bank, Artyard Condominium Association and the Santa Fe Railyard Community Corporation, which Previously Dismissed Case D-101-CV-2016-01773. (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)

MOTION: Councilor Rivera moved, seconded by Councilor Romero-Wirth, to into executive session to discuss the items listed on the agenda and recommended by the City Attorney.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

The Governing Body went into executive session at 5:07 pm

The Governing Body ended the executive session at 6:24 pm. They reconvened at 6:30 p.m.

MOTION: Councilor Rivera moved, seconded by Councilor Lindell, to return from executive session, stating for the record that the discussion was limited to the items on the agenda as recommended by the City Attorney.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

14. **EXECUTIVE SESSION ACTION ITEMS**

- a. Request for Approval of an Amended Settlement Agreement between the City of Santa Fe, Century Bank, Artyard Condominium Association and the Santa Fe Railyard Community Corporation, Removing Certain Restrictions on Railyard Parcel B-1 in Exchange for a Parking Agreement with the City, and an Amended Lease Agreement with the Santa Fe Railyard Community Corporation. (Andrea Salazar, Assistant City Attorney, asalazar@santafenm.gov, 955-6303)

Ms. Bustos-Mihelcic read the caption for this item.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Abeyta, to approve the amended settlement agreement as requested.

There was no discussion or questions on this matter.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

15. **MATTERS FROM THE CITY CLERK**

Ms. Bustos-Mihelcic provided a few updates. On the agenda, she added the committee review schedule for action items as well as notices for future reviews. She also alerted the Council that the City now has the agenda available in Spanish and a toggle feature for subtitles translated also.

The Santa Fe Reporter published 25 Things to love about Santa Fe. Number 11 was the ability for people to attend the City Council meeting in their PJs. Joe Abeyta has done a phenomenal job in also getting other committee meetings available through the City's Youtube channel. The Library also was ranked in the Reporter's list at number 7.

16. **COMMUNICATIONS FROM THE GOVERNING BODY**

A copy of the Bills and Resolutions Scheduled for Introduction is attached to these minutes as Exhibit 1.

Councilor Vigil Coppler read into the record a resolution she will be introducing – A Resolution requiring Governing Body approval prior to the public offering of any city land or property for sale.

She thanked the League of Women Voters for the virtual women's march and was happy to be a presenter on it. It was very creative, and the Governor and the newly appointed Secretary of the Interior were great as well as several Representatives. They brought a wealth of information and views of women walking. It was all very supportive and well done.

She had received feedback on a letter to the editor today and a lot of calls about the Genoveva Chavez Community Center and the lack of programs opening. She learned that the City has a lot of the PPE needed for the opening and still would be compliant with Governor's order. Other cities with 50-meter pools are open with ten people and some pools are open in other cities. Our residents are getting very impatient and she knew the Center could be opened within the Governor's orders and yet we don't. She did not have any answer about that. She would like to hear from the City Manager.

Manager LaPan Hill said she would take her request to our Legal Team and make sure we are within the Governor's orders. She understood the frustration to want the pools opened and she would find out what is holding us back.

Councilor Vigil Coppler thanked her for that. There is room for more participation in the pool. She has talked with Rec Staff who are ready to go and feel they can comply with the orders. Some people are very upset. But Staff cannot give answers to them. She thought the City could open more. We do have the Staff there and at times, they outnumber the public. We have sanitizing and everything needed to open.

Councilor Lindell introduced an ordinance to amend Section 11-14.5 SFCC 1987, to dedicate half the proceeds from any sale or lease of city-owned land and buildings to the Affordable Housing Trust Fund. Secondly, she introduced a Resolution urging the New Mexico Legislature to hold New Mexico School Districts and Charter Schools harmless for decreased enrollment in the 2020-2021 school year because of the COVID-19 Pandemic and Maintain funding at 2019-2020 levels.

Councilor Garcia asked if any Councilors are practicing the new practice of business on top and PJ's down below. He gave a quick birthday shout out to his Pop for last week. He will get his COVID vaccination this weekend at the VA Hospital.

Councilor Cassutt-Sanchez introduced, with Councilor Villarreal, a Resolution that was not on the Introductions page. The Resolution to support legislation at the New Mexico State Legislature to adopt an Act that would allow employees to approve and use paid leave and she also signed on as cosponsor for the ordinance Councilor Lindell introduced on sale of city owned land.

She thanked the library. Her family recently utilized their program to see bundles of age-related resources for children to use. It was a nice change around their house. Thanks to the library for providing that service. The Library also has great program for reading books for everyone to enjoy.

Councilor Villarreal mentioned support for the Pay-60 legislation – also cosponsor Councilor Lindell's resolution on properties sold. She also signed on for Governing Body approval before any City-owned land is sold as well as cosponsor for holding schools harmless for decreased enrollments during the pandemic. She also wanted to cosponsor the resolution the Mayor would introduce.

She recognized the Food Depot Superbowl in past years and sorry they are not sponsoring that. She pointed out ways to support them and local restaurants. You have until Jan 31 to purchase soup served by certain restaurants or give directly to Food Depot.

She gave shout out for Tonic for the Times on January 30 at 5:30 – a lot of musical performers, local and national singers, lifting up COVID caregivers and they have various partners related to COVID recovery. So there are ways to donate and enjoy great music listening.

She recognized League of Women Voters for the virtual women’s march and Kitty Christianson as organizer. Her organization, New Mexico Women.org was represented in it. There were lots of people who did not know about it. She commended them for doing it and appreciated their efforts and the topics they covered.

Councilor Rivera signed on as cosponsor to Mayor Webber’s resolution and to Councilor Cassutt-Sanchez’s paid leave resolution.

Councilor Abeyta asked to be added as cosponsor on Councilor Cassutt-Sanchez’s paid leave resolution. He thanked Mary McDonald and her Parks Department for her quick responses to an issue he brought to her about a community garden in District 3. He also thanked the Parks Crew out in District 3 for their work while it has been very cold. Finally happy birthday to Councilor Garcia’s Dad.

Mayor Webber introduced’ a Resolution supporting their designation of the first Monday in March as “COVID-19 Memorial Day” in remembrance of those who lost their lives and in honor of those who continue to suffer from the impact of the virus; and urging residents to continue taking preventative measures to mitigate the spread of the virus.

He mentioned a virtual summit for the Conference of Mayors last week and stayed home to meet virtually with mayors around the country. He was grateful for President Biden’s speech on COVID and its huge impacts on communities, and his introduction of \$1.3 trillion COVID Plan. He focused at one point on police enforcement. President Biden said if we all mask up, 40,000 lives could be saved in the next few months. First Monday in March is COVID 19 Day to end the spread of the corona virus. He was thankful for the robust conversation on vaccinations and is the light at end of tunnel. Our local providers are providing more transparency and clarity on how it will work here.

He gave a shout out to snow removal crews who are up at 4 am to keep the streets safe and keep them from icing up. He gets texts from Director Wheeler on how many are reporting early for work. It makes our lives easier and our streets safer.

He thanked everybody for their hard work as we get deeper into 2021. Shop local and keep our Mom and Pop operations going.

Another thing President Biden did was to rejoin the Paris Treaty. Climate change is an existential crisis. He sent comments on two bills at the State. One is a major

step toward greening of our economy and how we get our energy. It is a critical time for new energy policy for our State.

EVENING SESSION - 6:57 P.M.

17. **ROLL CALL**

All Councilors were present.

18. **PETITIONS FROM THE FLOOR**

Katherine Shiela had a brief comment on the Partners for Midtown. She was opposed to any role of LANL, and referenced the treaty ban on nuclear weapons which makes it illegal to produce nuclear weapons under international law. She urged Councilors to abide by the treaty including use of the Midtown campus.

Stefanie Beninato didn't repeat the previous comments but echoed the prohibition of LANL on the Midtown campus. She pointed out the discrimination on the part of the City. She was told we are in negotiations about that. "I really think my comments are reasonable and not complicated but wonder why it is taking so long and why the City Attorney is not representing in an HDRB appeal."

She agreed with Councilor Vigil Coppler about the pool and opening of other facilities. We could open Fort Marcy right now. Regarding maintenance of the facility, there is major rust at GCCC around windows and floor because the water temperature has not worked since it was installed. They put in a temporary heater and it is a threat. The condensation has ruined the window frames. The GCCC could be open on Sundays and could be open from 8:30 to 5:30 then.

She urged the Governing Body to do something about getting more recreation facilities open.

19. **APPOINTMENTS**

a. Mayor's Youth Advisory Board

Ms. Bustos-Mihelcic read the appointee: Valerie Ramirez, from Santa Fe High to a term ending in December 2022.

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Villarreal, to approve the appointment of Valerie Ramirez to the Mayor's Youth Advisory Board as requested.

There was no discussion or questions.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

20. **PUBLIC HEARINGS**

There were no public hearings.

21. **ADJOURN**

Having completed the agenda and with no further business to come before the Governing Body, the meeting was adjourned at 7:05 p.m.

Approved by:

Mayor Alan Webber

ATTESTED TO:

Kristine Bustos Mihelcic, City Clerk

Respectfully submitted by:



Carl G. Boaz, Council Stenographer

**GOVERNING BODY MEETING
EXECUTIVE SESSION
January 13, 2021**

The Governing Body of the City of Santa Fe met in an executive session duly called on January 27, 2020 beginning at 5:27 p.m.

The following was discussed:

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(7), Attorney-Client Privileged Discussion Regarding Threatened and Pending Litigation in Which the City of Santa Fe Is a Party, Including a Quarterly Litigation Update and Discussion of a Proposed Amendment to the Settlement Agreement between the City of Santa Fe, Century Bank, Artyard Condominium Association and the Santa Fe Railyard Community Corporation, which Previously Dismissed Case D-101-CV-2016-01773. (Erin K. McSherry, City Attorney, ekmcsberry@santafenm.gov, 955-6512)

PRESENT

Mayor Webber (Attended Virtually)
Councilor Abeyta (Attended Virtually)
Councilor Cassutt-Sanchez (Attended Virtually)
Councilor Garcia (Attended Virtually)
Councilor Lindell (Attended Virtually)
Councilor Rivera (Attended Virtually)
Councilor Romero-Wirth (Attended Virtually)
Councilor Vigil Coppler (Attended Virtually)
Councilor Villarreal (Attended Virtually)

STAFF PRESENT

Jarel LaPan Hill, City Manager (Attended Virtually)
Erin K. McSherry, City Attorney (Attended Virtually)
Kristine M. Mihelcic, City Clerk (Attended Virtually)
Andrea Salazar, Assistant City Attorney (Attended Virtually)
Richard Brown, Community and Economic Development (Attended Virtually)
Sean Moody, Asset Development Director (Attended Virtually)
Chris Ryan, Assistant City Attorney (Attended Virtually)
Mary McCoy, Finance Director (Attended Virtually)
Bernadette Salazar, Human Resources (Attended Virtually)

There being no further business to discuss, the executive session adjourned at 6:23 p.m.



Kristine M. Mihelcic, City Clerk



**GOVERNING BODY MEETING OF
January 27, 2021
 BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
 BY MEMBERS OF THE GOVERNING BODY**

EXHIBIT ONE
 GB Jan 27, 2021

Mayor Alan Webber		
Co-Sponsors	Title*	Tentative Committee Schedule*
	A RESOLUTION SUPPORTING THE DESIGNATION OF THE FIRST MONDAY IN MARCH AS "COVID-19 MEMORIAL DAY" IN REMEMBRANCE OF THOSE WHO HAVE LOST THEIR LIVES AND IN HONR OF THOSE WHO CONTINUE TO SUFFER FROM THE IMPACT OF THE VIRUS; AND URGING RESIDENTS TO CONTINUE TAKING PREVENTATIVE MEASURES TO MITIGATE THE SPREAD OF THE VIRUS.	Finance Committee – 2/15/21 Quality of Life Committee – 2/17/21 Governing Body – 2/24/21
Councilor Roman "Tiger" Abeyta		
Co-Sponsors	Title*	Tentative Committee Schedule*
Councilor Jamie Cassutt-Sanchez		
Co-Sponsors	Title*	Tentative Committee Schedule*
Councilor Michael J. Garcia		
Co-Sponsors	Title*	Tentative Committee Schedule*
Councilor Signe I. Lindell		
Co-Sponsors	Title*	Tentative Committee Schedule*
Abeyta Romero-Wirth	AN ORDINANCE AMENDING SECTION 11-14.5 SFCC 1987 TO DEDICATE HALF THE SALES FROM ANY SALE OR LEASE OF CITY-OWNED LAND AND BUILDINGS TO THE AFFORDABLE HOUSING TRUST FUND.	Public Works and Utilities Committee – 2/8/21 Quality of Life Committee – 2/17/21 Governing Body (request to publish) – 2/24/21 Finance Committee – 3/1/21 Governing Body (public hearing) – 3/24/21
Abeyta Cassutt-Sanchez	A RESOLUTION URGING THE NEW MEXICO LEGISLATURE TO HOLD NEW MEXICO SCHOOL DISTRICTS AND CHARTER SCHOOLS HARMLESS FOR DECREASED ENROLLMENT IN THE 2020-2021 SCHOOL	Governing Body – 2/10/21

	YEAR AS A RESULT OF THE COVID-19 PANDEMIC AND MAINTAIN FUNDING AT 2019-2020 LEVELS.	
Councilor Chris Rivera		
Co-Sponsors	Title*	Tentative Committee Schedule*
Councilor Carol Romero-Wirth		
Co-Sponsors	Title*	Tentative Committee Schedule*
Councilor JoAnne Vigil Coppler		
Co-Sponsors	Title*	Tentative Committee Schedule*
Garcia Villarreal	A RESOLUTION REQUIRING GOVERING BODY APPROVAL PRIOR TO THE PUBLIC OFFERING OF ANY CITY-OWNED LAND OR PROPERTY FOR SALE.	Public Works and Utilities Committee – 2/8/21 Governing Body – 2/10/21
Councilor Renee Villarreal		
Co-Sponsors	Title*	Tentative Committee Schedule*

* Subject to change

Introduced legislation will be posted on the City Attorney's website, under legislative services. If you would like to review the legislation prior to that time or you would like to be a co-sponsor, please contact Jesse Guillen, 505-955-6518, jbg Guillen@santafenm.gov or Jeff Norris, 505-955-6692, jtnorris@santafenm.gov.

SUMMARY INDEX
Special Governing Body
January 28, 2021

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
1. Call to Order	Convened at 5:00 p.m.	1
2. Pledge of Allegiance	Led by Councilor Romero-Wirth	1
3. Salute to the State Flag	Led by Councilor Cassutt-Sanchez	1
4. Invocation	Led by Councilor Garcia	1
5. Roll Call	Quorum Present	1-2
6. Approval of Agenda	Approved as presented	2
7. Discussion/Action Items		
a) Mutual Termination of ENA	Approved as proposed	2-15
8. Adjournment	Adjourned at 6:22 pm	15

**Minutes of the
Special Meeting of the Governing Body
Thursday, January 28, 2021
Virtual Meeting**

1. CALL TO ORDER

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Alan Webber, on Wednesday, January 27, 2021, at approximately 5:03 p.m., at the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico as a virtual meeting.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Councilor Romero-Wirth.

3. SALUTE TO THE NEW MEXICO FLAG

The Salute to the New Mexico Flag was led by Councilor Cassutt-Sanchez.

4. INVOCATION

The Invocation was led by Councilor Garcia.
The Governing Body observed a moment of silence for those who have recently died and their grieving families and those suffering from COVID or other diseases. We wish them well.

5. ROLL CALL

Roll call indicated the presence of a quorum remotely, as follows:

Members Present Remotely
Mayor Alan Webber
Councilor Roman "Tiger" Abeyta
Councilor Jamie Cassutt-Sanchez
Councilor Michael J. Garcia
Councilor Signe Lindell
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor JoAnne Vigil Coppler

Councilor Renee D. Villarreal

Members Excused

Other Participants Attending Remotely

Jarel LaPan Hill, City Manager

Erin McSherry, City Attorney

Kristine Bustos-Mihelcic, City Clerk

Andrea Salazar, Assistant City Attorney

Rich Brown, Community & Economic Development Director

Daniel Hernandez, Consultant

6. APPROVAL OF AGENDA

MOTION: Councilor Garcia moved, seconded by Councilor Lindell, to approve the agenda as published.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

7. DISCUSSION/ACTION ITEMS

- a. Approval to Mutually Terminate the Exclusive Negotiation Agreement (“ENA”) between KDC/Cienda (“Team Midtown”) and the City of Santa Fe Regarding the Midtown Property, Formerly Known as the College of Santa Fe and Formerly Operated as the Santa Fe University of Art and Design. (Richard Brown, Director – Community and Economic Development, rbrown@santafenm.gov, 955-6625)

Director Brown, Director of Community and Economic Development introduced Andrea Salazar, with the legal team and Daniel Hernandez, Midtown Project Manager.

Director Brown presented a report on the contract for the Midtown property. He said in response to the City’s solicitation for development, business ideas, interest, and proposals for the redevelopment of Midtown they received highly qualified responses. The responses included seven master developers. This is our request for what they call the RFEI, the Request for Expression of Interest. After evaluating the seven respondents and interviewing three finalists, the Midtown Evaluation Solicitation Committee recommended a finalist, “Team Midtown”, led by Katy C. Cienda.

On May 4, 2020, the Governing Body approved entering into an Exclusive Negotiation Agreement, (an “ENA”). The agreement grants exclusive rights for the developer to undertake a series of industry standards, real estate studies, and site assessments.

On December 20, City department leaders and the KCA Katy Cienda team held a joint three-day workshop, a charrette, to identify challenges and opportunities for moving forward with planning and development of the Midtown site. Director Brown explained a charrette is a French word defined as, “*A meeting in which all stakeholders in a project attempt to resolve conflicts and amass solutions.*”

After the charrette, key points were addressed including infrastructure, public finance, master planning, entitlements, and existing buildings. COVID-19 drastically changed our economic conditions at which degraded significant development investment. Commercial office opportunities extended time for entitlement approvals and financial risks that the developer had determined made the project feasible based on their risk analysis.

Because of these significant risks, the developer issued a letter of withdrawal from the Exclusive Negotiating Agreement. While both parties can submit a termination, their vote today is to approve or disapprove our choice to also terminate the agreement.

Part of the next steps is to reconvene our RFEI Evaluation Proposal Committee to consider how to move forward with other categories of the proposals. They will return to the Governing Body on February 24 with a new recommendation. Starting on February 10, they will submit biweekly, public, Midtown development updates. And on February 24 with the Evaluation Committee give a full presentation. Thereafter at the end of every month they will do a full presentation on the updates.

Mr. Hernandez will address some of the issues they plan to work on based on what they learned from the charrette. Last week they had a very lively debate, but they are open for any questions.

Mayor Webber explained the conversation was important. After the executive session, the Governing Body members discussed the need for more public transparency on issues and this provides that opportunity. Mayor Webber addressed Mr. Hernandez and said he could add more or respond as questions came up.

Mr. Hernandez replied he had nothing to add but was available to respond to any questions about the process to this point.

Ms. Salazar added she would also stand for questions.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the mutual termination of the Exclusive Negotiation Agreement as proposed.

Discussion on the Motion:

Councilor Garcia said the situation is that the pandemic impacted what a year ago was the hope to have positive discussions that would impact our community on what appeared not be a prosperous development of the Midtown property. That unfortunately was not the case. The challenge now is how to pivot and look at the property as the gem that it is. The silver lining is that the property is still there. The challenge is how to provide the community an opportunity to own this space that is rightfully theirs.

He said KDC Cienda could bring forth their termination without a mutual termination of the contract. He asked what the justification was for the City to also terminate versus just KDC Cienda terminating on their behalf.

Director Brown explained it was a mutual termination for a couple of reasons. They understand that COVID and the economy crashed the plan to move forward with the ENA. Both KDC and the City worked together in good faith to move our development discovery process forward. The RFEI was still a live document, and when they saw the unforeseen circumstances, and KDC Cienda wanted to terminate the agreement, they agreed. He had asked the leader from KDC Cienda to mutually terminate the agreement. Even though the agreement provided opportunity after six months to terminate each other.

Councilor Garcia asked if they were looking at potentially terminating the agreement prior to receiving the letter from KDC Cienda.

Director Brown explained they were acting in good faith. It was our duty to keep the process moving forward. That was why they instituted the charrette, so they were not coming to the Governing Body to say let's terminate now. But when KDC told us it was unsustainable to succeed, they knew they were going to terminate. That's when he asked KDC if they could do this mutually, as a good faith partner. It also allows us to then talk to other partners where they don't feel they are by merge choice type of organization.

Councilor Garcia asked Ms. McSherry if they would give up any legal rights if they should move forward with a mutual termination and let KDC Cienda terminate.

Ms. McSherry said no, the City would not lose anything terminating one way versus two ways, all else being the same. She thought it would be helpful if she read the section of the Negotiation Agreement, 6.3, on page 14, *"If after six months from the effective date of this agreement, either party concludes in its sole discretion that A) the project is not feasible, or B) that the negotiations are unlikely to result in the execution of a mutually agreeable DDA,"* (Disposition and

Development Agreement that was contemplated as a potential opportunity at the end of this agreement but not absolute) *“then such party may terminate this agreement by delivering written notice thereof to the other party. The parties shall work in good faith to find solutions and strategies that avoid a termination pursuant to this clause.”*

She thought when Mr. Brown spoke about receiving the letter from the developer, it outlined the reasons they initially submitted a plan, and the circumstances had changed. The City recognizes that part B was applicable for us at that point and after the charrette with the developer. Negotiations at this point were unlikely to result in a mutually agreeable DDA. Spending more months to come to that conclusion would not help anyone.

Councilor Garcia said he just wanted to be sure that the City was not giving up legal rights. This property means a lot to the community and many of them saw a great future. He knows that is still the case, would encourage them as a body, to be sure to move forward in a transparent manner. In a way that brings all the community members to the table in a process that allows everyone to have a voice in what transpires. We are in a digital age and must ensure the process moves forward equitably. Not everyone has access to Zoom or a computer, etc. and we must be sure everyone is able to participate in the process.

Councilor Cassutt-Sanchez said it was disappointing, but she understood lessons were learned. She said KDC mentioned challenges in the letter. One was that the RFEI indicated there would be more financial risk sharing between the City and the Master Developer. KDC felt in the ENA all of that had been pushed onto the Master Developer. Although they signed the ENA, she wondered what changed between the RFEI and the ENA that KDC would say that.

Director Brown said a lot of it had to do with more things that came to light in the discovery process. KDC suddenly realized they needed more than \$30 million for a subsidy. He asked Mr. Hernandez or Ms. Salazar to address that.

Mr. Hernandez said usually during the ENA and feasibility analysis period, the public and private entities identify potential gaps in the development process. The public generally brings the public finance structures to the table but there was a gap in what the public could bring. What the private could contribute exacerbated that gap. It only got bigger because of the economic conditions of the times.

The risk conditions were beyond what everyone was comfortable moving forward with. It has pushed us into figuring out what public finance structures we can pursue. We can bring those to the table in a clearer and more viable way. But at the time the gaps and the risk were just too big to move forward under the proposal submitted in the RFEI.

Ms. Salazar added that both the RFEI and the ENA clearly disclosed the entitlement process and all the steps, including zoning, planning, due diligence - everything- was laid out as being on the Developer. Unless they asked the City for public financing options. Between the RFEI and ENA, that has not changed. What did change was KDC's evaluation of the feasibility of moving forward under that construct. She wanted to clarify that the agreements and the framework have not changed, KDC's evaluation of whether they could move forward has.

Ms. McSherry agreed. She added that the RFEI expressly stated some of the options for public financing. The ENA contemplated they would have to be established as the process went on. They were not precluded; they weren't expressly included. It was anticipated it would be part of the financial planning as that moved forward. She thought because the circumstances changed, the developers decided that wasn't sufficient.

Councilor Cassutt-Sanchez thought they had learned a lot of lessons. She was grateful there will be regular presentations. She said they need to ensure the information is public and should err on the side of an overabundance of information. They should give people so much information that they don't want to hear it anymore. That would be a good goal.

She said this is still an incredible opportunity. Sometimes the path to success takes a couple of unexpected turns, but she was hopeful and eager to keep working with the Governing Body and the team and City Staff. Staff has put in countless hours and the charrette took a lot of Staff time. She thanked everyone of the staff for working numerous hours. They will make sure those hours are not wasted.

Councilor Villarreal also thanked City Staff for diligently working through the process and thought it beneficial. Her disappointment was realizing there are a lot of nuances to the groups they work with. She didn't support KDC because she felt their past experiences were congruent with the community and cultural context, they work in. That remains even with conversations she had after KDC was selected. She didn't feel their vision was what the City envisioned.

This gives us an opportunity to clearly look at our challenges and opportunities on the campus. She expressed complete faith in the City working groups who would continue the work. Also, this is an opportunity for a stronger more intentional community engagement process that is more transparent. That is important. The city will have an opportunity to continue working with local partners who have a better understanding of the local context and local needs. She has supported local partners from the beginning. She hopes that they will continue to be interested in the process and in partnering with us.

She asked clarification from Staff on the data collected and research conducted by KDC. She wanted to be sure that can be transferred to the City amicably. Or if

they have the data, that it can be utilized in moving forward. She wanted to be sure nothing proprietary was kept by KDC that the City was unaware of.

Director Brown explained the data could be described as their work product was the discovery process, but the charrette was where they received a lot of data. The charrette was put together because of the open sharing and was where the City could collect what the challenges and opportunities were. They all have that information, and it helps inform us on how they need to move forward.

He explained they have enough data from the 9 or so development special tactic teams that Mr. Hernandez has been working on. They don't expect any analysis work because KDC didn't share or submit anything the City wanted. They have what they believe was needed with the charrette data.

Councilor Villarreal said that was good. She wanted to be sure nothing was left that KDC could jump back in the game. She agreed the charrette was very helpful but wanted to know the City has what was needed to move forward. She said she was sure they will get more information and decide how to approach the next steps.

Councilor Vigil Coppler followed up on Councilor Villarreal's question. She asked if sharing the data produced by KDC could be a condition of approval.

Director Brown replied KDC did not share data in the beginning, so they don't know what data they have. He thought that data was information they gave their bankers to get financing. There was no data on zoning, infrastructure, housing trends, transportation, etc. The only thing that might be called "data" would be their meetings to find funding and those were never shared. They don't expect to get that.

Councilor Vigil Coppler said her thoughts were more along the lines of inspections, the conditions of the buildings and if they were habitable. She relates this to extensive inspections when buying a property. She assumed KDC did that because of their reason to terminate. That would be valuable for the City to have. She would ask for that to be a condition of the City's approval to terminate.

Director Brown said it could be a condition but KDC has a right to terminate. They may just so "no." But her point was good about inspections. He asked Mr. Hernandez to talk about some of the discovery process. He explained it was speculation that KDC did a formal inspection of contaminants. That was brought up in a discovery and there was no formal report or collected data. And the City is about to do their own Environmental Assessment to ensure they have that information. The last one was done in 2009.

Ms. McSherry explained that the existing contract is still in place to date and any obligations that existed are still there. They required submission of any due diligence reports obtained but that already existed. As she understands, they did

not do many formal reports. They have the hundred-day report where they estimated the amount of financing believed to be needed for the improvements required. She knew of no formal due diligence reports. They should have received them if there were and if they exist, should still receive them.

Director Brown said to that point they collected data on the production studio. They will keep that. There are trade secrets blacked out, but they have the data on the production studios.

Councilor Vigil Coppler said she asked because of when you want to get out of a real estate contract in New Mexico. If inspections are involved, it is a contingency and you must produce the report. She prefers proof because the City could learn a lot from the money KDC spent. She said if they didn't spend money producing data then what did they spent \$300,000 on. That was one of the reasons they are terminating and if there are any others, it was related to the structures. KDC could have seen the structures when they first visited the property. They should go after any in-depth analysis of the structures because it is valuable information.

Councilor Vigil Coppler said secondly, she wanted to ask how soon KDC would receive one-third of the \$25,000 they are due.

Ms. McSherry responded as soon as we terminate, we can start processing that. Councilor Vigil Coppler said in real estate people don't get their earnest money back until they produce documentation that was needed to get out of an agreement.

Councilor Vigil Coppler asked if there was a contract with Daniel Hernandez and what will happen to him in the future.

Director Brown explained that Mr. Hernandez is under contract, but he couldn't recall the end date. Mr. Hernandez prior to the termination was leading the development, infrastructure, and access groups. He is also working with the public engagement group and spearheading the reports. He has convened nine groups to work on the reports of what they have learned. He will continue to do that and to work with him as the project manager. Mr. Hernandez has a lot to do and will ensure they have biweekly reports, and they have more public engagement.

Ms. Salazar explained that Mr. Hernandez's contract is tied currently to the entire RFP process. He is our project manager for the entire process, regardless of which Master Development Team or negotiations they have.

She also wanted to add that the City wasn't in a sale or disposition of the property. It was an exclusive negotiation agreement and based on that there was no earnest money or sale. The due diligence reports and all the information provided was related to our ENA on moving forward in good faith. They never got to the

disposition phase. It was never to a point that you could relate it to a real estate agreement.

Councilor Vigil Coppler understood. They were in some kind of agreement and because it was such a low amount of money that made it easier to get out of. It was disappointing, but she sees this as a new opportunity, and they have more information than when they started. She was looking forward to solving the issue of what to do with the property. She hopes the work continues because this is something that is good for Santa Fe and its uses will be good for those living here. It could possibly solve some of the housing issues.

She said she will continue to be interested in that component. She wanted to have more public meetings on this and fewer executive sessions. The City needs to be a lot more transparent than when they started. She mentioned to someone that she didn't know the details and how things were going when they first embarked on the project. She doesn't want that kind of process in the future, and it doesn't work for the public.

Councilor Vigil Coppler stated the fact that they are in a termination of the agreement may be expected by some, but it was major for the public. They haven't been involved because our discussions were held in executive session. That isn't the process she wanted. The public should know what they are doing with the property. She said she appreciated all the work by Director Brown and Mr. Hernandez and the City Attorney's Office.

Councilor Garcia said, to answer Councilor Vigil Coppler's question, the contract with Mr. Hernandez is set to expire on June 30, 2022.

Mayor Webber was glad Mr. Hernandez was present. The public and several Council members have expressed their disappointment with this developer. But also, as previously mentioned, other opportunities have been presented.

He addressed Mr. Hernandez and noted he has been through complex urban development projects in different cities around the country. He asked how unusual it was for things not to go "as planned" and how often there are bumps in the road. Mayor Webber said in his experience in urban development, this was not unusual. In fact, often things need to be reconsidered and alternative options evaluated. The City should not be too self-critical that this didn't result with this Master Developer.

Mr. Hernandez agreed. He has seen projects where the city was further into a contract with the developer. Momentum is built around the person who does the work and then they find that the project isn't feasible. Then things unravel completely, and you lose a lot of public trust. The site then becomes untenable from other developers' perspectives.

The value of the exclusive negotiation agreement period was it allows ideas to unfold. Both parties can discuss the specific challenges and people can then walk away from the exclusive negotiation. That is valuable because of the learning opportunity. The City can take the reins, which is what everyone is doing tonight, to look at what is learned and how to reenter the process even stronger.

They plan bi-weekly presentations and will return mid-February to the Council and tackle the big issues more confidently. Again, it happens, and the good thing is both parties are about to part amicably and have learned from each other.

Mayor Webber said Councilor Villarreal raised a good point; they have a strong group of local teammates. They have expressed interest not only with this Master Developer but other teams as well. He knew that Mr. Hernandez, Director Brown and others have had conversations with some of the strong local advocates. He asked Mr. Hernandez to talk about the residual goodwill and optimism of the local partners who are committed and engaged deeply with Midtown.

Mr. Hernandez said to help the public understand, one reason Team Midtown was a finalist was because most of their team were local partners. If not directly in Santa Fe, they were in New Mexico. They provided a contextual knowledge and experience as Councilor Villarreal mentioned.

Mr. Hernandez said they want to protect the integrity of the process. He and Director Brown followed up with those who participated in the charrette. They have since spoken to many of them as well. The message of those who participated was that they are totally committed. They wanted us to know they are committed to continuing with the redevelopment of the site. They have expressed interest in working with the City, however possible, and asked to be kept informed.

Councilor Romero-Wirth suggested Mr. Hernandez speak to why the RFEI process and its strengths and how it works. She thought that would be helpful for the public to understand the history of where they have been and where they are going. That also addresses concerns around transparency and the benefits of the process and why it was selected.

Mr. Hernandez explained when he started working with the administration, he heard a lot that people were calling who wanted to do something with the site. Everyone he spoke to within City Hall and the Mayors administration were strongly committed to the public's understanding of the process. They did not want to do anything behind closed doors. They wanted a process in which people could submit in a public way, their proposals, or ideas for the redevelopment.

Secondly, they didn't want to do the standard RFPs, Request for Proposals. Proposals meaning, "I know exactly what I want to do there and here is my proposal." They wanted people's interests and ideas and called it an RFEI, a Request for Expression of Interest. They wanted participants to understand the

City anticipated working with their *ideas* through a long process that would include the public to refine and build on that idea.

That enabled us, as part of the evaluation process, to evaluate the participant's interest and their ideas. The RFEI process was basically the same as for an RFP from a procurement process. The RFEI just clarified they were only accepting interests and evaluating their ideas and whether they were consistent with what the City heard from the public in 2018. They didn't want any backroom deals and here is what the City expects, and the process used for evaluation.

Mr. Hernandez said the public had expressed they wanted someone with experience and local knowledge and context with the financial capacity to implement a project such as this. The evaluation criteria were included in the RFEI, so everyone knew whether applicants met the criteria.

Councilor Romero-Wirth stated that the process mirrored the RFP process. That was helpful because people are familiar with that process. She asked Mr. Hernandez to walk through the details of that.

Mr. Hernandez explained they wanted to be sure it was competitive. The standards around the RFP process are that you are submitting against what everyone else has submitted. There were some levels of transparency they could have and some that were regulated. Part of the agreement a public entity with a competitive edge makes with the private entity is maintaining some things as confidential. They promised to keep that confidential until a final selection was made. That was the reason for the misunderstanding that the RFEI would be different. But they were following the regulated process for procurement. That was why the confidentiality was so important.

The proposals were evaluated like the RFP process and they select someone to negotiate a contract, in this case through the ENA. The idea was that the contract would result in a sale and redevelopment of the property. It was a lengthier process than the RFP with the intent to use the process to engage the public. This is a public process to create a master plan over the ENA period, but feasibility just did not pan out as anticipated.

Councilor Romero-Wirth noted they were not at a point of negotiating the contract. This was just an opportunity for the developer to look exclusively at the site in greater depth and evaluate whether their vision was feasible.

Mr. Hernandez agreed. He thought the public perceived that there was already a contract, but there was not.

Councilor Romero-Wirth confirmed if they had completed the process and it worked out, they might be discussing the next step of negotiating a contract.

Mr. Hernandez said that was the part that would have become the public process; the phasing, number of units, what type of commercial developments, etc.

Councilor Garcia asked if the City was handcuffed to continue the RFEI process. Ms. Salazar responded to get out of the exclusive ENA they can revert to the RFEI process. They will evaluate several options and bring those back to the Governing Body. They are potentially, the termination of the RFEI process, the termination of the master developer section of the RFEI or maintaining the process and go to the next selected master developer. We will present our recommendations to the Governing Body in the next couple of weeks. Also, they will present the work of the charrette and the teams evaluating the best way to move forward which is currently happening.

Councilor Garcia said it sounds like we are not handcuffed, and we can say it didn't work out and we are closing out the RFEI process. He said there are critical needs in the City, such as housing. We can begin to look at the property and how to laterally develop it to provide housing opportunities. Then we can look at other opportunities within the property. He said he continues to advocate moving City Hall to the property. He suggested they look at that to develop around those two spaces.

Councilor Garcia said he wanted the public to know what to look for. This process was time-consuming, about a 1 1/2 years in the making. We need to really start to look at the property because there are dire needs in the community. He noted that Councilor Lindell was always reminding them that we are spending \$7,000 each day on the property, and we need to use it.

Councilor Vigil Coppler said she appreciated Councilor Romero-Wirth taking them through the RFEI process. She wanted to reiterate along the way points were made administratively to discuss things in private. She wanted decisions where there was some latitude made in public. The public felt left out of the information presented. We should learn from that and be more transparent.

She said Ms. Salazar touched on her second question, yes, we have options. She said we were presented with decisions in three parts in our executive session, and the decisions were reasonable. But she wanted to be sure the Governing Body decides which of those options to take.

Staff makes recommendations, but she wanted the pros and cons of each recommendation. Then they could make decisions on the information. All of that can be made public and constituents can weigh in on what they feel is the best avenue to take. She said she didn't know about the others, but she has received emails of what her constituents want.

Councilor Vigil Coppler noted that Ms. Salazar said they would present in a couple of weeks. She asked if that was reasonable and planned on a City Council meeting currently scheduled.

Ms. Salazar explained the intent was to present what they have learned in the February 24 meeting.

Councilor Romero-Wirth asked Mr. Hernandez, since he has experience in the development of properties like this, to set expectations about how long this would usually take under the best of circumstances.

Mr. Hernandez replied in a city the size of Santa Fe it can take 2-3 years to enter into a DDA for something to get in the ground. He said we will recommend ways to move forward and address concerns they heard this evening. Are there ways of getting housing on the site in early phases; a way to move the project forward.

Currently they have charged the teams to look at incremental ways to develop the site versus thinking about it as a master developer site. They will look at those as options. We want the city to understand the pros and cons of each strategy so we can start to chip away at 2 to 3 years strategy and get an early start.

Mr. Hernandez said a master developer plan can take anywhere from one to three years to get something in the ground. Now they will look at this incremental strategy.

Councilor Romero-Wirth thought part of the problem was understanding the acronyms and definitions of the words. Even once you have that in place, construction can take a while and can start and stop. She wanted everyone to be patient because this is an important piece of property for the community. We want to do this right and definitely want to start phasing in.

She wanted to set expectations because they have debt service on this, and the poor economy, etc.

Councilor Villarreal asked for clarification. She said a point was brought up by a community member on the infrastructure issues and disrepair of buildings. She understands some of the repair and deferred maintenance was before the City took over and still under the University's control.

Mr. Hernandez responded there were pre-existing conditions when the City took the site. That is part of considering the strategy for the demolition and decommissioning of buildings. The strategy will be presented in February of what to do with the existing buildings. Some buildings will clearly be demolished but could potentially be used on a temporary basis. Some will be permanent.

Councilor Villarreal added that the City has simultaneously put in a lot of money to ensure the safety of the buildings and structures.

Mr. Hernandez said early on they decided to protect and secure the buildings from injury and damage since they would not be used.

Director Brown added they followed a strict risk and insurance policy even before the ENA to ensure a building to be decommissioned is not unsafe for others. Councilor Villarreal recalled Stanencheck was invited to join the charrette with the team and had shared information. She asked if he could remind them of what was shared.

Mr. Hernandez said they did site assessments with the developer. They collected all the reporting and data procured through third parties as well as our own analysis. But as far as engineering, Stanencheck was not charged to generate formal, professionally licensed, etc., reports.

Councilor Romero-Wirth said following up on the point, the City has invested money and some of the infrastructure needs are considerable. We have asked the legislature for funds for the site. The need isn't any less important today than the action they will take tonight. It may be more important in getting the site ready. The City has invested money and will have to put a lot more in getting it to a place they can move forward.

Mayor Webber said her point is well taken. Of the several issues raised by the Master Developer and their own team, was that the site was not shovel ready. The risk-reward changed dramatically with COVID. He wasn't sure the academic institution that leased the space kept up the maintenance, upkeep, and infrastructure they were supposed to have done. We believe it was and will continue to be a beautiful, core geographic center of Santa Fe. We need to treat it as such, but we also need to make it shovel ready. Whether that is done all at once or as a suite of projects remains to be seen.

The team will assess those options and regardless of the route there needs to be infrastructure investment on the site. It would be to the advantage of the state legislature and potentially the residents of the Santa Fe to decide put infrastructure dollars into the site. Governor Richardson was instrumental in the purchase of the site years ago and even then, it was a gem.

Now we are asking that the state continue to help us do the preparatory work to be ready when the projects come. The request, and the opportunity and need are still there. The hope is to get assistance from capital improvements from the state. There were no other questions or comments.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, and Councilor Villarreal.

Against: None.

Mayor Webber thanked his colleagues for a thorough, informative discussion. This is the first of many public discussions to share the information they have learned with the community and do more outreach, engagement and listening.

He asked members who get emails that raise questions or advocate for different uses to share them with Director Brown or Mr. Hernandez. Those could be useful and are good voices to listen to and we can all benefit. He will pass any information he gets on to the team as well, so they benefit from the input as they do their work.

8. ADJOURN

Having completed the agenda and with no further business to come before the Governing Body, the meeting was adjourned at 6:22 p.m.

Approved as amended on January 27, 2021 by:

Mayor Alan Webber

ATTESTED TO:

Kristine Bustos Mihelcic, City Clerk

Respectfully submitted by:



Carl G. Boaz, Council Stenographer

Written Report to Governing Body
Meeting Date: 02/10/2021
Time Period Covered: 1/21/2021 – 02/03/2021

POLICE DEPARTMENT

Covid Info Calls 1/21/2021-2/03/2021

1. 1/23/2021 @ 5:56pm- COVID INFO 165 Michelle Dr
Report of people from Texas at the location not quarantining for two weeks

Per Officer, contact was made with the family from Texas. They were unaware of travel restrictions and stated they were returning back to Texas tomorrow morning. No report required

Time Received 5:56pm

Dispatched 8:55pm

Arrived 9:15pm

2. 1/24/2021 @ 2:44pm- COVID INFO 1116 E Alameda St (Patrick Smith Park)
Report of one group of kids not wearing masks at the Basketball court/their mother is telling the kids to do what they want and get close to whoever they want.

Per Officer all kids and park goers are wearing masks. No report required

Time Received 2:44pm

Dispatched 3:02pm

Arrived 3:13pm

3. 1/28/2021 @ 2:26pm- COVID INFO 1364 Rufina St (Santa Fe Power Plant)
Report of no employees and clients wearing masks at location.

Per officer business closes at 5pm. No one around when officer arrived. No Contact. No report required

Time Received 2:26pm

Dispatched 7:14pm

Arrived 7:22pm

Covid Mask Calls 1/21/2021-2/03/2021

4. 1/29/2021 @ 10:48am- COVID MASK 600 N. Guadalupe St (Market Street).

Report of male customer at location did not have his mask on 1/23/21.

Per officer reporting party stated a male was not wearing his mask on 1/28/21. Per manager store is still enforcing the use of masks. No report required.

Time Received 10:48am

Dispatched 10:54am

Arrived 11:01am

5. 02/02/2021 @ 11:31am- COVID MASK 57 Old Santa Fe Trail

Report of two males not wearing masks. Per the officer the two males stated that they had a medical condition. No report required.

Time Received 11:31am

Dispatched 11:34am

Arrived 11:39am

6. 02/03/2021 @ 9:09am- COVID MASK 3140-J Cerrillos Rd (Wash Tub Laundry)

Report of two females eating without masks on at about 8:30am. Per Officers max occupancy is 18. There were 9 people in the business. All were wearing masks. No report required.

Time Received 9:09am

Dispatched 9:12am

Arrived 9:23am

Average Dispatch time (from call to officer dispatched)

- COVID Info 3hrs 2 minutes
- COVID Mask 4 minutes

Average Response time (Dispatch Officer to Arrival at location)

- COVID Info 13 minutes
- COVID Mask 8 minutes

COVID Mask Citations to Date under the City Ordinance

- 20 Citations Issued
 - 10 Citations
 - 10 Warning Citations

No violations under the State's PHO at this time.

Repeat Calls (Since 12/16/20):

- 301 W De Vargas (Department of Labor Park area) 3 Calls

- 1221 Flagman Flagman Way (Gym) 2 Calls
 - Both calls, business was determined to be in compliance.

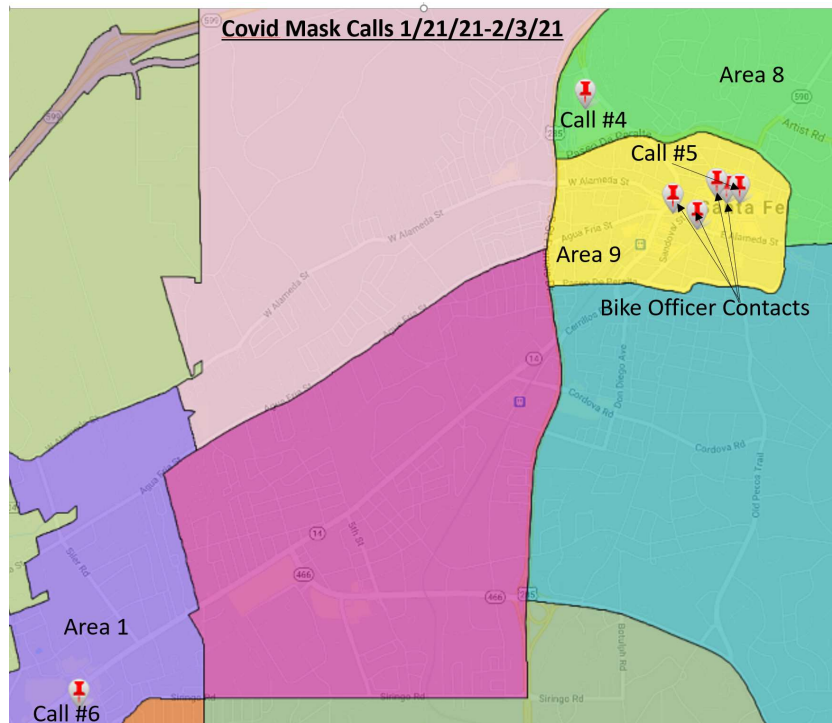
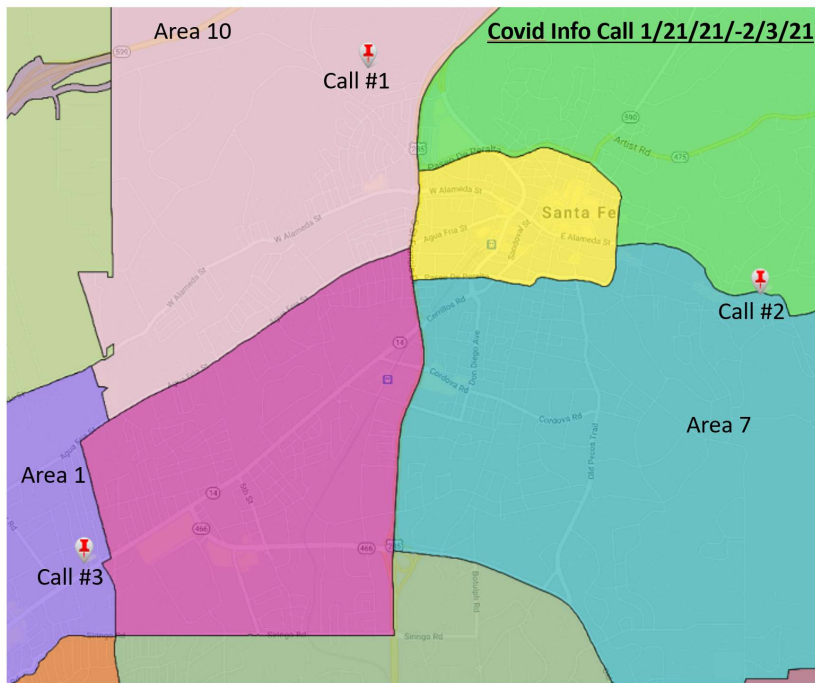
- 66 E San Francisco St (Plaza Galeria) 2 Calls
 - No information provided in either call

- 3695 Cerrillos Rd (Green Tree Inn) 2 Calls

- 7401 Cerrillos Rd (Lithia Dodge) 2 Calls

- 600 North Guadalupe (Market Street) 2 Calls

Locations of Covid Info and Covid Mask Calls (1-6):



FIRE DEPARTMENT

Number of calls related to COVID-19:

- 61 incidents known or suspected to be COVID-19 related.
- The SFFD COVID-19 dedicated ambulance responded to **24** of the **61** calls, and **18** of the calls were confirmed as COVID-19 positive.

Number of transfers to and from the Santa Fe Regional Airport to area hospitals:

- 10 Transfers; 8 of these COVID -19 Related

Transfers to Santa Fe originated from:

City	State	Zip
TOHATCHI	NM	87325
GALLUP	NM	87301
RATON	NM	87740
WINDOW ROCK	NM	86515
SHIPROCK	NM	87420
LAKE ARTHUR	NM	88253
ZUNI	NM	87327
EL RANCHO	NM	87506

These include transfers from SF Regional Airport to local hospitals.

HUMAN RESOURCES

Number of new positive cases among City employees since the previous report, categorized by City department:

Department	Number of Cases Reported January 15, 2021-February 4, 2021
Community Services Department	1
Public Works Department	2
Recreation Department	1
Tourism Department	1
Total	5

Number of cumulative positive cases among City employees since March, categorized by City department:

As of February 4, 2021:

Department	Active	Resolved	Grand Total
Community and Economic Development	0	1	1
Community Engagement	0	1	1
Community Services	1	6	7
Finance	0	3	3
Fire	0	23	23
General Government	0	2	2
Human Resources	0	1	1
ITT	0	1	1
Land Use	0	1	1
Police	1	13	14
Public Utilities	0	20	20
Public Works	1	23	24
Recreation	1	4	5
Tourism	1	1	2
Grand Total	5	100	105

Whether or not the City employees that test positive have been in City facilities since during their period of infection, and if so, when they were in said facilities:

When the City HR Department becomes aware of a positive case, the HR team completes a thorough exercise with the employee who has tested positive to identify if the employee was at a City facility or worksite and if yes, when. If the employee was at a City facility or worksite, the department works with HR and the City Manager to determine if a closure is necessary. The area is cleaned and sanitized in addition to the regularly scheduled cleaning and sanitizing schedule.

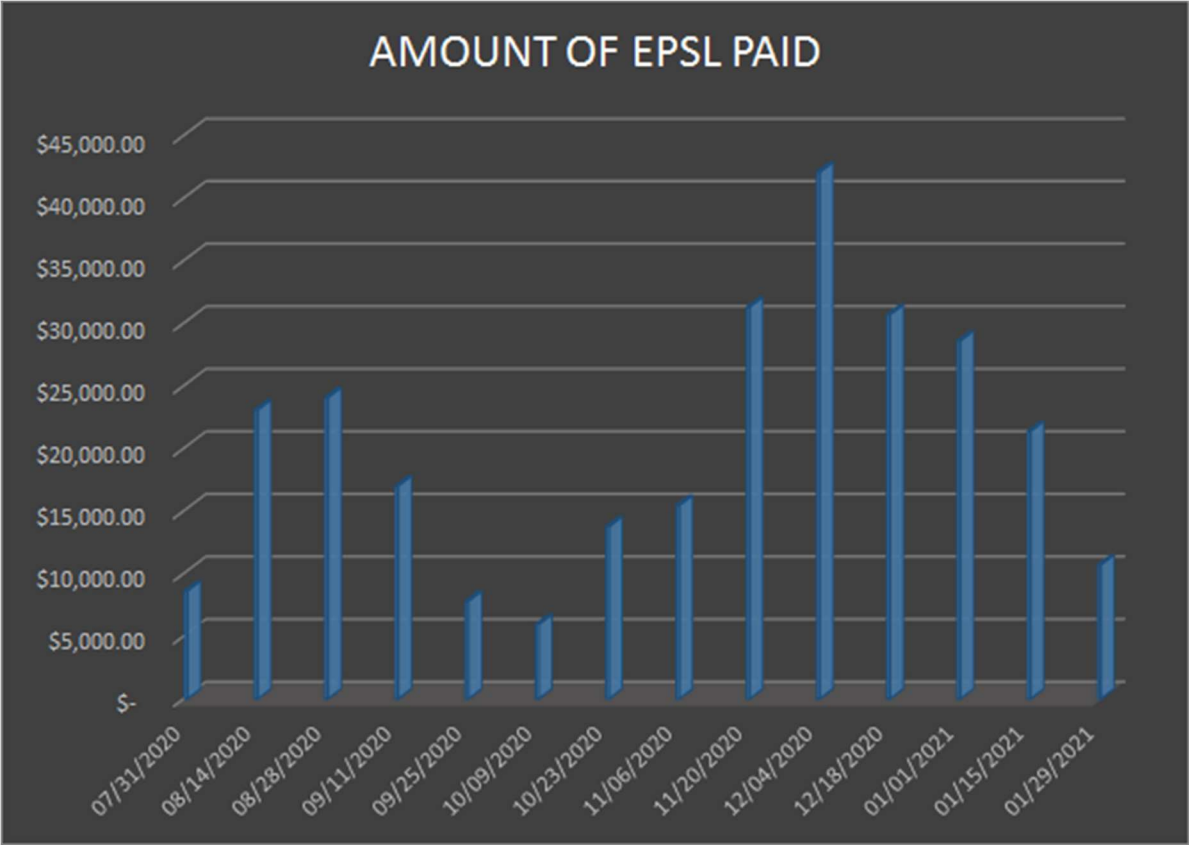
City buildings that were closed as a result of any positive cases:

Municipal Court was closed due to a positive COVID-19 case in July 2020.

Report on City-wide use of emergency sick leave related to COVID-19:

Pay Period	Pay Date	Number of Employees Who Utilized EPSL	Number of Hours Granted	Amount of EPSL Paid
July 11, 2020 July 24, 2020	7/31/2020	14	556	\$ 8,614.76
July 25, 2020 - August 7, 2020	8/14/2020	45	1497.75	\$ 23,075.59
August 8, 2020 - August 21, 2020	8/28/2020	29	1281	\$ 24,073.26

August 22, 2020 - September 4, 2020	9/11/2020	22	882.5	\$ 17,008.33
September 5, 2020 - September 18, 2020	9/25/2020	22	379	\$ 7,802.31
September 19, 2020 - October 2, 2020	10/9/2020	11	400	\$ 5,942.47
October 3, 2020 - October 16, 2020	10/23/2020	18	794.5	\$ 13,758.90
October 17, 2020 - October 30, 2020	11/6/2020	19	757	\$ 15,451.41
October 31, 2020 - November 13, 2020	11/20/2020	42	1595	\$ 31,287.40
November 14, 2020 - November 27, 2020	12/4/2020	55	2130.5	\$ 42,072.24
November 28, 2020 - December 11, 2020	12/18/2020	42	1549.25	\$ 30,689.84
December 12, 2020 - December 25, 2020	1/1/2021	38	1502.25	\$ 28,598.84
December 26, 2020 - January 8, 2021	1/15/2021	28	1092	\$ 21,369.05
January 9, 2021 – January 22, 2021	1/29/2021	18	507.75	\$ 10,694.64



EMERGENCY MANAGEMENT & SAFETY

Below are the items we have in stock for City distribution as well as what has been distributed in this two-week time period. Safety has transferred all cleaning products to City Facilities for their use throughout City sites.

Item	Box Count	Box Quantity	Total	Distributed	Remainder
Cotton Masks			2571		2571
KN95s			2040		2040
IR Thermometers			6		6
Sanitizer			2078		2078
Face Shields			1022		1022
Nylon Bags (Plastic)	7	300	2100		2100
Nitrile Gloves (Medium)	11	1000	11000		11000
Nitrile Gloves (Large)	40	1000	40000		40000
Face Shields (Velcro)	20	50	1000		1000
Hanes Masks	10	500	5000	2000	3000
ProPac Surgical Masks	8	272	2176		2176
Toilet Seat Covers	29	5000	145000		145000
Caution Tape	18	12	216		216
Nylon Bags Blue	3	1000	3000		3000
N95 Makrite Respirator	24	480	11520	960	10560

Right now, we do not have the quantity of PPE to provide large amounts to community agencies or businesses. As we get those requests, we direct them to Department of Security and Emergency Management. As more supply becomes available to the City, we will activate notification of availability to community partners who have registered via Alert Santa Fe (<https://www.santafenm.gov/alertsantafe>). We are currently able to supply smaller amounts of PPE to constituents in need on an individual basis.



City of Santa Fe Water

Overview of Santa Fe River Reservoir Storage Constraints Associated with the Rio Grande Compact & 2020 Lessons Learned

February 2021



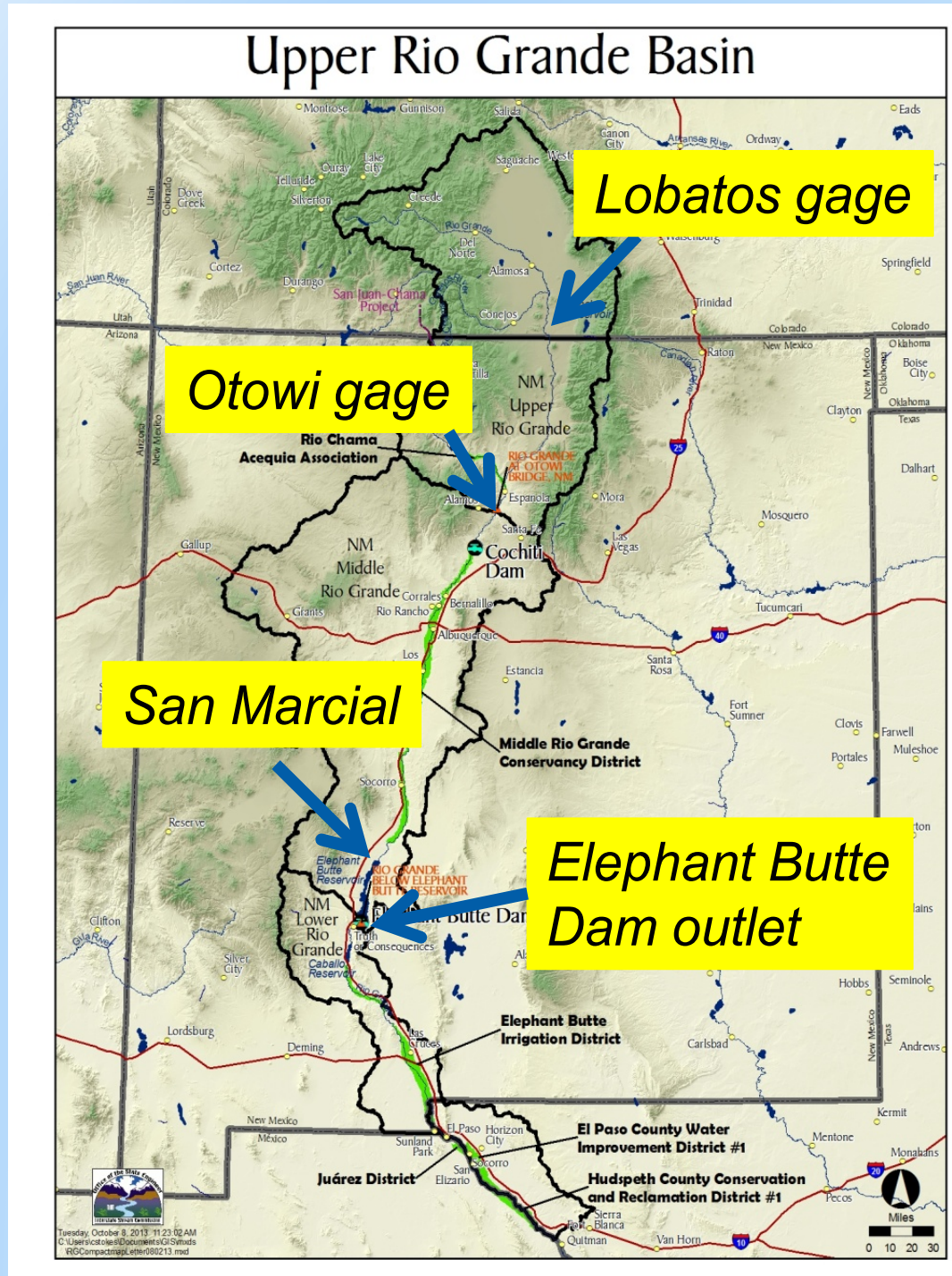
McClure Reservoir on the Santa Fe River

Rio Grande Compact

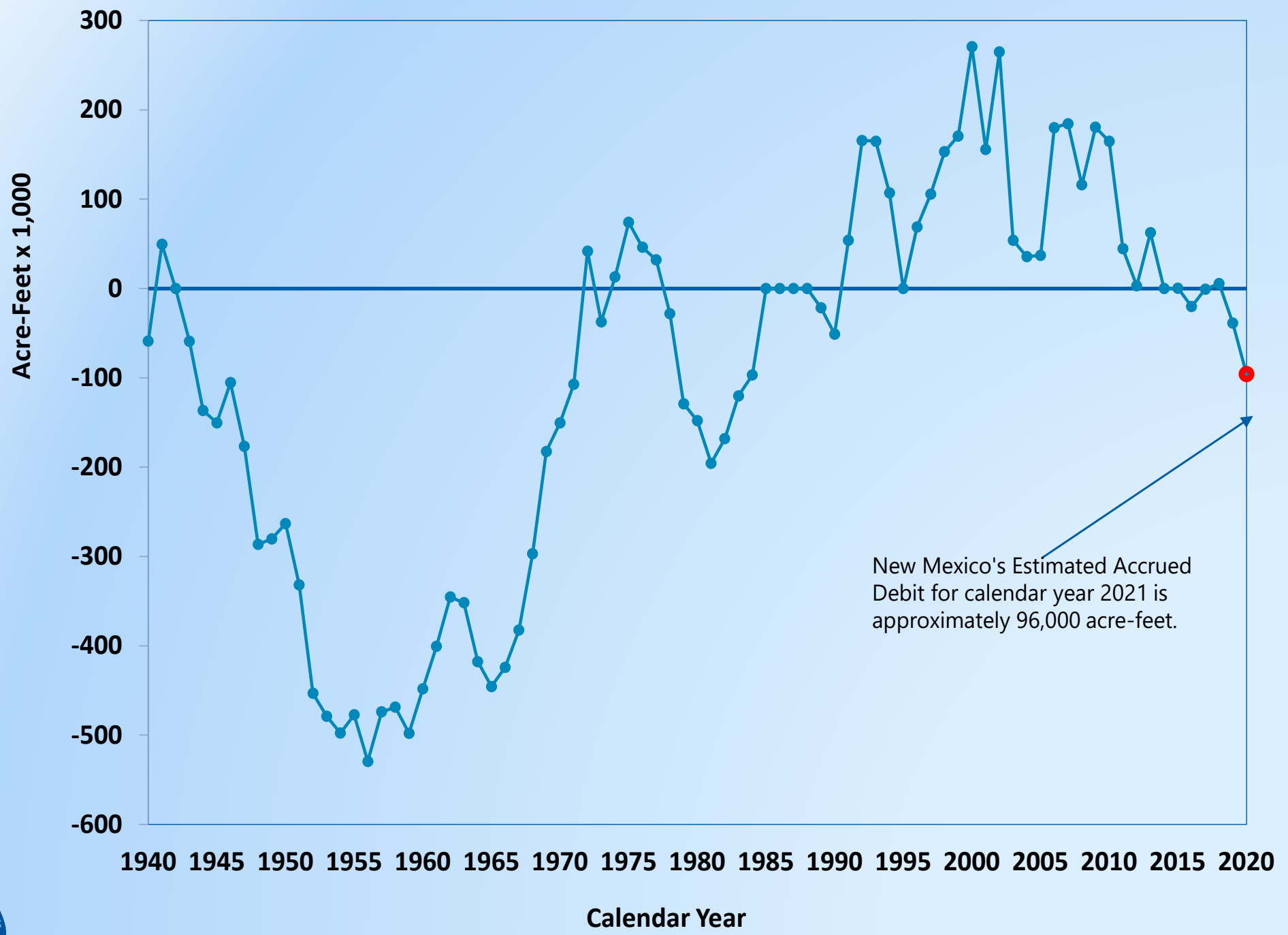
- Signed (in Santa Fe) by CO, NM, and TX in 1938
 - Signed for NM by State Engineer Thomas M. McClure
 - New Mexico's Compact Obligation is based on flows at Otowi and is met by flows into Elephant Butte Reservoir
 - In 1929, the 3 states had agreed to a Temporary Compact with the Formal Compact based on depletions in 1929
 - "Reservoirs constructed after 1929 in the drainage basin of the Rio Grande between Lobatos and San Marcial" are subject to provisions in the Rio Grande Compact (Map next slide)
 - Only Nichols/McClure, and El Vado have post 1929 pools and currently store native Rio Grande water (SJC water not subject to RGC)



Upper Rio Grande Basin



Rio Grande Cumulative Compact Balance



New Mexico's Estimated Accrued Debit for calendar year 2021 is approximately 96,000 acre-feet.



Nichols and McClure Reservoirs

- McClure (1926 561 AF then expanded in 1935, 1947, 1990s to get to current size): current storage capacity: 3257 AF
- Nichols (1943): current storage capacity 664 AF
- Total current storage capacity of 3921 AF
 - Pre-Compact pool of 1061 AF
 - Post-Compact pool is remaining 2860 AF
 - Small portion of NM's total Post-Compact storage
 - This storage is subject to the Rio Grande Compact

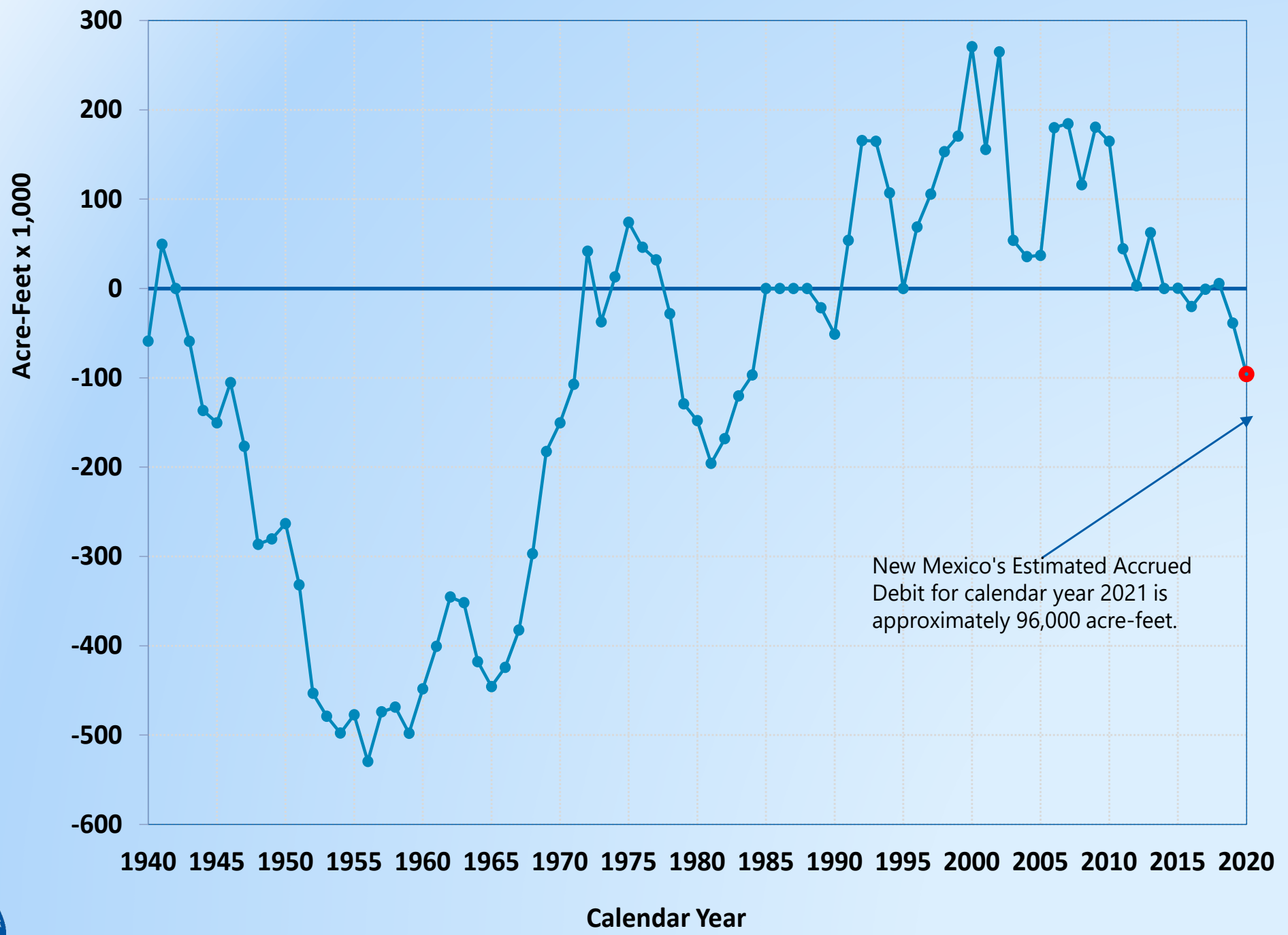


Rio Grande Compact Restrictions on SF River Storage

- Article VI:
 - If NM is in debit to Texas, City of Santa Fe Water must store our proportion of “debit water” in our post-1929 pool before we can use that space for our own storage.
- Article VII:
 - If water available for release from Elephant Butte and Caballo falls below 400,000 AF, native water cannot be added to storage in Nichols/McClure.
 - During article VII we can store San Juan Chama (SJC) “by exchange” (paper exchange of SJC in Heron or Abiquiu with native in McClure or Nichols, and release of the (now) native water from Heron or Abiquiu.
 - During article VII we can also store if we have “relinquishment credits” resulting from previous overdeliveries to Elephant Butte.
- Article VIII:
 - “During the month of January of any year the Commissioner for Texas may demand of ... New Mexico, ... the release of water from storage reservoirs constructed after 1929 to the amount of the accrued debits of ... New Mexico, ... and such releases shall be made ... at the greatest rate practicable under the conditions then prevailing



Rio Grande Cumulative Compact Balance



New Mexico's Estimated Accrued Debit for calendar year 2021 is approximately 96,000 acre-feet.



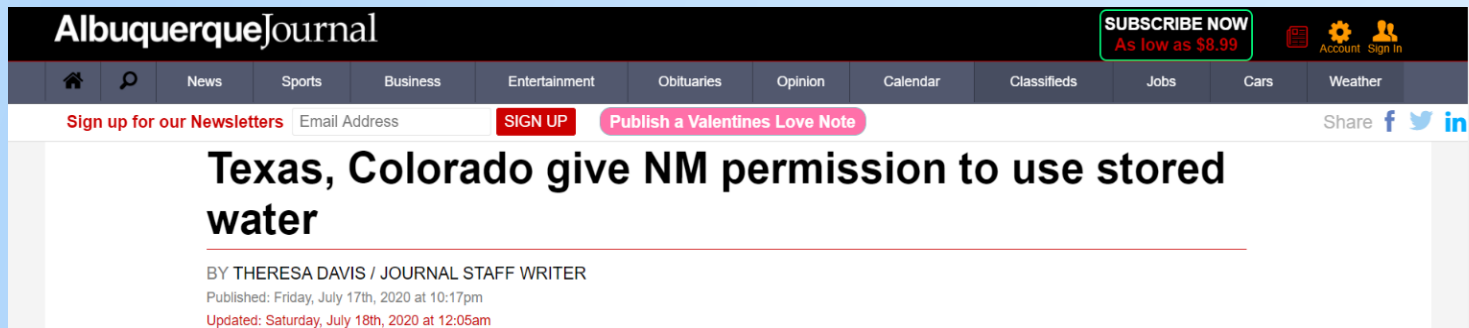
What happened in 2020 (1/2)?

- Article VI: If NM is in debit to Texas, City of Santa Fe Water must store our proportion of “debit water” in our post-1929 pool before we can use that space for our own storage.
- In 2020, NM entered the year with 38,800 AF accrued debit
 - For the first time since the 1970s (we think) City of SF Water was requested by OSE to store debit water
 - Our post 1929 storage was 2.4% of total.
 - El Vado held the other 97.6% of post 1929 native storage
 - City of SF needed to store $38,800 * 2.4\% = 948$ AF
 - El Vado had to store the remaining 37,852 AF



What happened in 2020 (2/2)?

- Debit water storage
 - El Vado storing 37,852 AF
 - Nichols/McClure storing 948 AF
 - City of Santa Fe Water expectation was to be asked by NM to release this water in November or December
 - Due to dry conditions on Rio Grande, New Mexico appealed to Texas in July for permission to make emergency releases of “debit water” from El Vado during the irrigation season. Permission was granted.



- No request for release from Nichols was made during irrigation season, or in November or December of 2020
- On January 6th, 2021 Texas invoked Article VIII and requested of NM that remaining debit water be released by end of month at “greatest rate practicable”



What happened in 2021 (1/2)?

- On January 6th, Texas invoked Article VIII and requested of NM that remaining debit water be released by end of January at “greatest rate practicable”
- City of SF Water had two options to release the 948 AF
 - From Nichols per Compact
 - From Abiquiu “by exchange”
- Advantages to releasing from Abiquiu
 - Energy advantages to keeping water in SF River Reservoirs (elevation > 7400 feet)
 - Water quality advantages to treating high quality SF River water instead of RG
- Advantages to releasing from Nichols
 - Aesthetic: living river
 - Hydrologic: recharge local aquifers and rebuild soil moisture in channel
 - Scientific:
 - Recharge rates
 - How much of released water would make it to Rio Grande?
 - What would river look like at specific points with constant 20 cfs flow?



What happened in 2021 (2/2)?

- Jan 8th – Jan 11th: conversations with NM on details of release.
- City of Santa Fe Water requested a split release
 - 748 AF release “by exchange” from Abiquiu
 - 200 AF release from Nichols
 - 20 cubic feet per second is greatest rate practicable
 - At this rate, the release would last approximately 5 days
 - 5 day minimum recommended by hydrologists for observation of release to Rio Grande
- Tuesday Jan 12th: City of Santa Fe Water attempted staff level communication with Cochiti Pueblo
- Thursday Jan 14th: email from Mayor Webber to Cochiti Pueblo on behalf of City of SF Water
- Friday Jan 15th: CoSFW begins to understand expectation for formal Tribal Consultation
- Wednesday Jan 20th and Thursday Jan 21st : letters requesting Consultation sent to 10 Pueblos
- Thursday Jan 21st NM denies CoSFW more time to make release
- Wednesday Jan 27th Consultation with leadership & representatives from 4 Pueblos
- Thursday Jan 28th: Debit water release from Nichols cancelled (moved to Abiquiu)



Tribal Consultation Jan 27th 2021

- Federal and NM State agencies are required to consult with tribal governments when developing programs, policies, and activities that will affect Native populations
- City of Santa Fe has no such guiding legislation, however tribal consultation was desired by the Pueblos for the proposed Nichols release
- Virtual meeting hosted by City of Santa Fe Water on Jan 27th
- Governors of Cochiti and Tesuque Pueblos and Mayor Webber in attendance
- Tribal concerns of 5 day release of 20 cfs from Nichols included water quality and sacred sites.
- CoSF Water was not in a position to reduce the rate of release or extend the release
- Access to Cochiti Pueblo to monitor the river was not granted
- CoSF Water judged that making the release was not in the best interest of neighborly relations
- Debit water release from Nichols cancelled (moved to Abiquiu)



Lessons Learned

- Better understanding of communication with Pueblos
 - Consultation process
 - Government to government communications protocol
 - Consultation time needed (at least 30 days notice)
- If we store “debit water” again
 - Consult with Pueblos during irrigation season to try to develop a mutually agreeable set of parameters under which a winter release from Nichols could occur
 - We will not store “debit water” in 2021 because Article VII conditions expected throughout the year





MIDTOWN DISTRICT SANTA FE

Public Progress Reports for February 10 Governing Body Meeting - Discussion Agenda. Documents include:

- January 29: Midtown Development Committee “Strategy Tactics Team” Progress Report
- December 16: Charrette & Predevelopment Update @ ENA 6-Month Period

In direct response to the outcomes of the Midtown Charrette held December 7-9, 2020, the Midtown Steering Committee established the Strategy Tactics Team (STT) to serve as an action-oriented team to develop initial solutions and strategies for moving forward the redevelopment of the Midtown Site.

The STT met for its first time on December 30, 2020 to begin organizing its efforts into categories that were based on the results of the Midtown Charrette; as stated within the Midtown Report: Charrette & Predevelopment Update @ ENA 6-Month Period dated December 16, 2020, which was also submitted to the City's Governing Body. As such, the STT established the following categories:

1. Existing Buildings & Site Conditions

- a. Demolition
- b. Rehab/ Reuse
- c. Civic Buildings - MOU (Library, Arts Complex, Performance Theater)
- d. Garson Studios – existing lease, proposal for operations/ development expansion
- e. Existing Leases * (see Public Finance)
- f. Environmental Assessment
- g. FF&E Assets

2. Master Plan & Phase 1

- a. Scenarios
- b. Connectivity/ Access
- c. Phasing
- d. Phase 1 / Early Start Projects

3. Infrastructure

- a. Investigations, Assessments, Reports (phased)
- b. Phasing
- c. Utility Financing * (see Public Finance)

4. Entitlements

- a. Requirements
- b. Phased
- c. Applicant / Planner

5. Public Finance

- a. Utility Fees / Utility Financing *
- b. Governance Structure (e.g. Metropolitan Redevelopment Area)
- c. Financing Options (e.g. Bond, TID, other)
- d. Cash Flow – Early Start Projects/ Garson Studios, and Budget Phasing to increase cash flow, reduce operational burden, source for funding predevelopment costs
- e. City investment – (planning, assessment, reports)
- f. Enterprise Funds
- g. Other Financing Options (list in order of feasibility and priority)

6. RFEI – Moving Projects Forward

- a. Early Start Projects

- b. Civic Buildings
- c. RFEI and Alternative Procurement Scenarios – pros and cons
- d. Garson Studios

7. Public Engagement

- a. Aligning Planning Schedule with Public Engagement

The STT agreed on creating committees for each category that would have a “Lead” responsible for coordinating meetings and implementing a scope of work for each category, including deliverables, as follows), with Sam Burnett and Daniel Hernandez assisting in coordinating information sharing to align and integrate recommendation and strategies into a comprehensive approach for viably moving forward.

- 1. Existing Buildings and Site Conditions (Lead: Daniel Hernandez and Sam Burnett)**
- 2. Master Plan & Phase 1 (Lead: Eli Isaacson and Stefan Pellegrini)**
- 3. Infrastructure (Lead: Sam Burnett and Sean Moody)**
- 4. Entitlements (Lead: Noah Berke and Eli Isaacson)**
- 5. Public Finance (Lead: Dena Belzer and Mary McCoy)**
- 6. ENA and RFEI (Lead: Andrea Salazar and Daniel Hernandez)**
- 7. Public Engagement (Lead: Alexandra Ladd and Daniel Hernandez)**

The STT will prepare a report to the Midtown Development Committee Staff and Steering Committee prior to making any formal recommendations to the City’s Governing Body. A bi-weekly report packet will be included on the Governing Body discussion agenda, starting February 10. Note: A more formal presentation to the Governing Body is planned for February 24.

MIDTOWN DISTRICT SANTA FE

Date: December 16, 2020
From: Richard Brown, Director of Community and Economic Development
Authors: Daniel Hernandez, Proyecto, Midtown Project Manager
Dena Belzer, Strategic Economics, Land Economics Consultant
To: City of Santa Fe, Governing Body
Midtown Steering Committee
Subject: **Charrette & Predevelopment Update @ ENA 6-Month Period**

EXECUTIVE SUMMARY

The City “Midtown Master Development Committee” (City) and the Developer “KDC Cienda Team Midtown” (Developer) participated in a Charrette from December 7-9, 2020. The primary value of the Charrette was that it clarified assumptions, strengths, weaknesses, opportunities and threats (SWOT) which affect the re-development process and resulting residual land values. It also became clear that drivers of land value in the market will be affected by the SWOT factors identified in the Charrette and contained in this Report, no matter what site disposition process is undertaken, whether an auction, Disposition and Development Agreement (DDA) or other.

The Charrette confirmed the value of the RFEI and the ENA process, in that having a private developer at the table to express assumptions, identify SWOT and begin to develop ways to address them, strengthen overall project viability. The Developer submitted their response to the RFEI predicated on many assumptions, as is standard process in developer procurements of this type. The ENA period was intended for the Developer to test their assumptions and revise their proposal, in collaboration with the City, so that going into the final DDA, there are no surprises on either side, i.e. clear understandings and negotiated terms. The understanding of Midtown that the Developer gained in this process and shared with City staff at the Charrette will certainly serve the project going forward.

City staff, with the Strategic Economics and Proyecto team, will begin exploring more detailed options for assisting the development feasibility by proposing viable risk sharing proposals, identifying and deploying all available public financing sources, and exploring an entitlements process that meets the City’s requirements while providing the flexibility as well as certainty that developers typically require over a multi-year phased development contemplated for a successful Midtown District.

Charrette & Predevelopment Update @ ENA 6-Month Period

REPORT

Purpose

This Memorandum is to provide the Governing Body and the Midtown Steering Committee with a concise update on the Midtown predevelopment and planning process. KDC Cienda, the Master Developer lead of Team Midtown (Developer), and the City of Santa Fe (City), entered into an Exclusive Negotiation Agreement (ENA) on May 4, 2020, which outlined certain industry standard predevelopment due diligence and feasibility analysis responsibilities to form the basis of a Disposition and Development Agreement (DDA). The conclusion of the six-month ENA period on November 4, 2020 marked a significant moment for the parties to convene to identify variables that are either challenges and/or opportunities to the progress of redeveloping the Midtown Site.

To facilitate a collaborative public/private partnership between the Developer and the City, the Director of Community and Economic Development and the Midtown Steering Committee proposed a Midtown Charrette to review analysis undertaken by the Developer for the parties to better understand the strengths, weaknesses, opportunities, and threats (SWOT) regarding the development viability of the Midtown Site, and to problem-solve, maximize opportunities, and outline a path forward.

Midtown Charrette

A Charrette is a meeting in which all stakeholders in a project attempt to resolve conflicts and map solutions. Participants share their work and skills with members of their team and/or partners, and talk through, collaborate, and sketch solutions to explore, and share a broad diversity of strategies for implementation.

The City and Developer held a Charrette on December 7-9, with 23-43 attendees per day in various sessions. A core objective of the Midtown Charrette was to create a shared understanding of the existing opportunities and constraints associated with developing the Midtown site. This collective understanding could then inform a concrete development framework and process to move forward with obtaining land use entitlements, infrastructure improvements, and appropriate development phasing in the Santa Fe real estate market context.

Both parties agreed that the Charrette was timely, provided an opportunity to strategize within a multi-disciplinary framework, and to jointly understand the SWOT parameters of the Midtown site development.

Agenda

Day 1: Physical Planning

- Master planning – infrastructure planning, transportation planning, Phase 1

Day 2: Strategic Planning

- Implementation strategies – entitlements, infrastructure finance, connectivity/access, City/State land swap, public finance, residual land value, market forces

Day 3: Public/Private Partnership

- ENA terms

Charrette & Predevelopment Update @ ENA 6-Month Period

Understandings & Next Steps

Understandings: Key SWOT Development Parameters

The following SWOT parameters were assumptions stated by the Developer and reflect their preliminary analysis, aka, back of the envelope assessment. The Developer did not present formal professional reports, detailed pro formas, or certified assessments to substantiate their SWOT business points listed above. The following SWOT points were presented as reasons to pause the ENA process until the City provided assurances for overcoming the challenges and risks. It should be noted that the City's project team had generally understood from the outset that these SWOT parameters were going to affect residual land value and the underpinnings of the DDA terms for overall development progress and viability. Charrette outcomes confirmed these initial assumptions and helped to identify Next Steps.

1. Existing Buildings

Developer initially planned for the adaptive reuse of many existing buildings as an interim strategy to secure cash flow to pay for early predevelopment and development activities. However, after initial a site and building walk-thru and basic review of available plans, the Developer determined that to get the current buildings into code compliance for occupancy, the cost outweighed projected cash flow. Therefore, the Developer no longer considers reuse of certain buildings as a mid-term revenue generating strategy in their preliminary economic assumptions.

2. Infrastructure

Developer claims to have underestimated the cost for fully assessing existing infrastructure, as part of their due diligence responsibilities. However, based on a review of available base information provided by the City, the Developer has preliminarily projected costs for engineering and constructing fully upgraded infrastructure are estimated to be over \$30 million. The Developer's preliminary assumptions estimates costs on a per acre basis, assuming only developed land (net of roads, parks, and other public amenities) - the infrastructure cost make the land cost-per-acre much higher than land cost-per-acre for other ready to be developed sites in Santa Fe.

3. Connectivity / Access

Developer determined that a minimum of 5-points of auto access will be a critical determinant of the market success at Midtown, particularly since a relatively mid to high-density, mixed-use, commercial development pattern is proposed as part of the master plan land uses. The Developer had assumed that they would be able to obtain a right of way through the "Smith's grocery store" property to gain access between the site and Cerrillos Road. However, the Developer stated that they were unable to reach agreements with the owner on creating this connection/access. Similarly, the Developer stated that they were unable to develop agreements with the property owner to north of the site that could connect St. Michaels Drive to the site. The Developer believes that they will not achieve necessary higher and more economically feasible densities on the site without these and other points of access.

4. Environmental Assessment

Developer had not assumed undertaking any environmental assessments or remediation as part of their site development costs. Environmental assessment was part of the ENA due diligence process, and the City has been prepared to provide preliminary background information and coordination. Given that assessing and potentially remediating areas will add costs to what the Developer stated is already a cost overburdened site, they requested that the burden of environmental activities be on the City.

Charrette & Predevelopment Update @ ENA 6-Month Period

5. Land Use Entitlements

When the Developer submitted their response to the RFEI, they assumed that any land use entitlements for the site would be granted through an administrative process, not a full public entitlements process. However, this was an incorrect assumption, as described in the RFEI scope of work. In addition, the ENA expressly stated that the Developer shall prepare and file all applications for City entitlements, including zoning, amendment to the City's general plan, and master plan. The Developer's perspective is that the entitlement process is extensive and expensive. Creating a master plan would require, at a minimum, an infrastructure plan and a transportation plan, as well as agreement on allowable land use uses. The parties agreed that C-2 zoning would allow for the greatest land use flexibility, while the LINC overlay provides important development incentives, as well as guidance for building form and site planning. The Developer expressed concern that the entitlement process presents a potential significant risk to the development and predevelopment schedule.

6. Public Financing and Existing Bond Debt Repayment

Developer has determined that the total cost to develop the entire Midtown campus, including obtaining entitlements, remediating any environmental contamination, replacing infrastructure, providing sufficient access to the site, and repaying existing bond debt, together add up to a very high cost relative to the land's potential value in the marketplace. Given the perceived risk in making this kind of investment, the Developer is requesting that the City consider a land value payment that fits within the Developer's preliminary conceptual financial model, without the expectation that the land value payment is high enough to retire the City's existing bond debt; and, for the City to assume costs and responsibility for providing points of (i) access/connectivity; (ii) obtaining entitlements, and, (iii) removing bond repayment requirements. It should be noted that the City had considered detailed land valuation analysis as part of the ENA due diligence and DDA negotiation process. At the outset, the RFEI noted that Land valuation and "the final land price or lease cost will be negotiated with the City during the disposition and development process to maximize the economic value of the land toward achieving the Midtown Planning Guidelines, inclusive of community development and public policy objectives." 3.G.RFEI.

7. Markets

Developer expressed a general concern about the uncertainty of the market and the impacts it has on risk evaluation for investing predevelopment funds into the project. In their response to the RFEI, the Developer had assumed that their early development phases would be led by "build to suit" commercial uses, such as tech and institutional users. However, the COVID-19 pandemic has created budget risks for the commercial partners, which may no longer be able to raise the funds for anticipated capital expansion at the site. Although market conditions do suggest that an early development phase could focus on residential (market and affordable), the Developer does not seem particularly interested in this approach for reasons that remain unclear, but may be related to their underwriting assumptions that the market value for these Phase 1 residential units might be low.

Next Steps

The Charrette uncovered and confirmed these underlying SWOT assumptions and provided the basis for the City team to begin developing strategies, Next Steps, to overcome the challenges and risks for the City, and to better inform further discussions and negotiations with the Developer. Some areas for further exploration will include:

Charrette & Predevelopment Update @ ENA 6-Month Period

A. Public Financing Options

City will research viable public special purpose entities, such as a Metropolitan Redevelopment Area under the NM Metropolitan Redevelopment Code, to maximize the opportunities for accessing favorable financing mechanisms for redevelopment areas/districts. The City, as a public entity, has various public financing instruments and structures to help bridge the projected financing gaps identified in development feasibility studies, which the City will pursue.

B. ENA Review

City to review the terms of the ENA that would minimize risk for both parties and position the City to maximize its potential to ensure that the site is economically beneficial to developers, while achieving the City's economic, as well as other public policy goals. Any amendments to existing procurement, including the ENA, would be pursuant to review and approval of the City's Governing Body.

C. Entitlements and Master Planning

City will review entitlement pathways for achieving the desired development and maximizing the use of the LINC overlay in a potential Phase 1 development. Objectives would be to start creating value on the site while containing, phasing, and strategically placing investment in new infrastructure. Next steps will be to confirm and/or assess if existing sewer, water, and electrical systems are adequate to handle the load from a proposed development program. This approach may yield little or no residual land value for the City, but the trade-off would be that there is new investment at the site that could help build market value momentum for future phases as well as generate some potential cash flow.

D. Connectivity/ Access

City will develop alternative transportation plans that prioritize pedestrian and bicycle access, while ensuring sufficient auto access, that is uniquely Santa Fe based, with a focus on achieving carbon reduction goals and compact, walkable development patterns. Plans would be market tested as part of the initial research.

E. City/State Land Swap

The City team agrees that the City/State land swap will be advantageous for the Midtown site's long-term viability and should proceed. The state land is very important for the site's long-term connectivity/accessibility.

F. Brownfield Remediation

City will request a Target Brownfield Assessment with the NMED.

G. Public Engagement

City is proceeding with the scope of work with the UNM DPAC public engagement team. Some initial items to be developed are an integrated schedule aligning the civic organization grant program, activation events, public forums, and industry sector forums, with the master planning process.

H. Development Economics

City will utilize the services of Strategic Economics, and their urban planning sub-consultant, Opticos, as well as, Proyecto, the City's project manager and development strategist, to analyze and develop the economic underpinning of proceeding in alternative development scenarios with the Developer.

Timeline

The City team is proposing to return with a series of strategies to the Governing Body in February 2021.

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 02/01/21
FOR CITY COUNCIL MEETING OF 02/10/21

- a) Request for Approval of a Budget Amendment Resolution (BAR) in the total amount of \$205,000 from the Cash Balance in Water Enterprise fund to the Transmission and Distribution Operating Supplies. (5050386.530200). (Randy Lopez, Transmission and Distribution Supervisor, rjlopez@santafenm.gov, 955-4246)

Committee Review:

Public Works and Utilities Committee: 01/25/2021

Finance Committee: 02/01/2021

Governing Body: 02/10/2021

FINANCE COMMITTEE ACTION:

Approved as consent item.

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR ABEYTA	X		
COUNCILOR CASSUTT-SANCHEZ	X		
COUNCILOR LINDELL	X		
COUNCILOR ROMERO-WIRTH	X		
CHAIRPERSON VILLARREAL	X		

01/13/21

ACTION SHEET
PUBLIC WORKS AND UTILITES COMMITTEE MEETING OF 01/25/2021

ISSUE NO. 8B

Request for Approval of a Budget Amendment Resolution (BAR) in the total amount of 205,000. from the Cash Balance in Water Enterprise fund to the Transmission and Distribution Operating Supplies. (5050386.530200). (Randy Lopez, Transmission and Distribution Supervisor, rjlopez@santafenm.gov, 955-4246)

Committee Review:
 Public Works and Utilities Committee: 01/25/2021
 Finance Committee: 02/01/2021
 Governing Body: 02/10/2021

PUBLIC WORKS AND UTILITES COMMITTEE ACTION: Approved on Consent Agenda to forward to 02/01/2021 Finance Committee

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:



VOTE:	FOR	AGAINST	ABSTAIN
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR GARCIA	X		
COUNCILOR ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR VIGIL COPPLER	X		


City of Santa Fe, New Mexico

MEMO

DATE: January 14, 2021

TO: Public works & Utilities Committee & Finance & City Council

Via: Shannon Jones, Public Utilities Director 
Jesse Roach, Water Division Director 

FROM: Randy Lopez, Transmission & Distribution Supervisor 

ITEM AND ISSUE:

Transmission and Distribution (T&D) is requesting approval of a Budget Amendment Resolution (BAR) in the amount of \$205,000. From the Cash Balance in Water Enterprise fund to the Transmission & Distribution Operating Supplies (5050386.530200).

BACKGROUND AND SUMMARY:

T&D is requesting a BAR in the amount of \$205,000 to cover Operating Supplies (5050386.530200) for the remainder of the FY 2020-2021. T&D started to use this line item to purchase meters during FY 2019/2020, and transferred money into the budget with a BAR to support this spending. Because this additional spending was covered with a BAR, and actuals from 2019/2020 were not available during the 2020/2021 budget process, the 30% reduced budget request was based on 2018/2019 actuals and was inadequate.

The table below shows budget and actuals as available for the last three fiscal years including the current year.

Operating Supplies (5050386.530200)		
FY 2018/19	Budget \$345,986	Actual Expenditures \$156,772
FY 2019/20	Budget \$250,000	Actual Expenditures \$444,233.66
FY 2020/21	Budget \$144,175	YTD Expended & Encumbered: \$91,396.03

This BAR is an increase from the Water Division's Cash balance to the Water Division, T&D, and Operating Supplies in the amount of \$205,000.

RECOMMENDED ACTION:

Approval of Bar from Cash Balance in Water Enterprise fund in the amount of \$205,000.

Log # {Finance use only}:	
Batch # {Finance use only}:	

City of Santa Fe, New Mexico

BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME PUD/Water/T&D	DATE 1/13/2021
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ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
<u>EXPENDITURES</u>				<i>{enter as positive #}</i>	<i>{enter as negative #}</i>
Operating Supplies	5050386	530200		205,000	
<u>REVENUES</u>				<i>{enter as negative #}</i>	<i>{enter as positive #}</i>

JUSTIFICATION: *(use additional page if needed)*
 --Attach supporting documentation/memo

	\$ 205,000	\$ -
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Budget Increase from Cash Balance in Water Enterprise Fund for the Operating Supplies line item to make meter supply purchases through the end of the FY

<i>{Complete section below if BAR results in a net change to ANY Fund}</i>	
	Fund Balance
Fund(s) Affected	Increase/(Decrease)
505	(205,000)
TOTAL:	(205,000)

Maya Martinez Prepared By <i>{print name}</i>	1/13/2021 Date	<i>{Use this form for Finance Committee/ City Council agenda items ONLY}</i> <div style="text-align: center;">CITY COUNCIL APPROVAL</div> City Council Approval Date <input style="width: 100px; height: 20px;" type="text"/> Agenda Item #: <input style="width: 100px; height: 20px;" type="text"/>	<div style="text-align: right;"><i>AJH</i></div> AJH (Jan 15, 2021 11:27 MST) Budget Officer _____ Date Finance Director {≤ \$5,000} _____ Date City Manager {≤ \$60,000} _____ Date
Division Director Signature <i>{optional}</i> 	Date		
Department Director Signature	Date		

Shannon Joyes (Jan 15, 2021 10:23 MST)

Signature: Randy Lopez
Randy Lopez (Jan 15, 2021 09:35 MST)

Email: rjlopez@santafenm.gov












T&D Ops BAR packet

Final Audit Report

2021-01-15

Created:	2021-01-15
By:	Maya Martinez (mfmartinez@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA5zvwGa5Sk6JDIBPxtot5c8jAQH9LpPxyX

"T&D Ops BAR packet" History

-  Document created by Maya Martinez (mfmartinez@ci.santa-fe.nm.us)
2021-01-15 - 4:24:24 PM GMT- IP address: 63.232.20.2
-  Document emailed to Randy Lopez (rjlopez@santafenm.gov) for signature
2021-01-15 - 4:25:59 PM GMT
-  Email viewed by Randy Lopez (rjlopez@santafenm.gov)
2021-01-15 - 4:34:44 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Randy Lopez (rjlopez@santafenm.gov)
Signature Date: 2021-01-15 - 4:35:24 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Jesse Roach (jdroach@santafenm.gov) for signature
2021-01-15 - 4:35:25 PM GMT
-  Email viewed by Jesse Roach (jdroach@santafenm.gov)
2021-01-15 - 5:19:36 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Jesse Roach (jdroach@santafenm.gov)
Signature Date: 2021-01-15 - 5:20:56 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Shannon Jones (swjones@santafenm.gov) for signature
2021-01-15 - 5:20:58 PM GMT
-  Email viewed by Shannon Jones (swjones@santafenm.gov)
2021-01-15 - 5:21:14 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Shannon Jones (swjones@santafenm.gov)
Signature Date: 2021-01-15 - 5:23:17 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2021-01-15 - 5:23:17 PM GMT


T&D Ops BAR packet

Final Audit Report

2021-01-15

Created:	2021-01-15
By:	Maya Martinez (mfmartinez@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAUyQ_OrT_0_rpitaQjxtqYXhgLrzXxwSB

"T&D Ops BAR packet" History

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2021-01-15 - 5:39:58 PM GMT- IP address: 63.232.20.2
-  Document emailed to AJH (ajhopkins@santafenm.gov) for signature
2021-01-15 - 5:40:21 PM GMT
-  Email viewed by AJH (ajhopkins@santafenm.gov)
2021-01-15 - 6:23:50 PM GMT- IP address: 174.28.73.250
-  Document e-signed by AJH (ajhopkins@santafenm.gov)
Signature Date: 2021-01-15 - 6:27:33 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2021-01-15 - 6:27:33 PM GMT

ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 02/03/2021
FOR CITY COUNCIL MEETING OF 03/10/2021

ISSUE:

Consideration of Bill No. 2021-__: An Ordinance Amending Section 7-1.1 SFCC 1987 to Adopt the Newest Version of the International Energy Conservation Code as Adopted and Amended by the State of New Mexico Construction Industries Division; and Amending Section 7-4.2 SFCC 1987, City of Santa Fe Green Building Code, to Update Code References in Conjunction with the Adoption of the 2018 International Energy Conservation Code as Adopted and Amended by the State of New Mexico Construction Industries Division. (Councilors Cassutt-Sanchez and Abeyta) (Jason Kluck, Assistant Planning and Land Use Director, jmkluck@santafenm.gov, 955-5937)

Committee Review:

Quality of Life Committee: 2/3/21
 Public Works and Utilities Committee: 2/8/21
 Governing Body (request to publish): 2/10/21
 Governing Body (public hearing): 3/10/21

QUALITY OF LIFE COMMITTEE ACTION: Approved on consent.

SPECIAL CONDITIONS OR AMENDMENTS:

SEND TO:

Public Works and Utilities Committee; Governing Body

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON ROMERO-WIRTH	X		
COUNCILOR VILLARREAL	X		
COUNCILOR RIVERA	X		
COUNCILOR GARCIA	X		
COUNCILOR CASSUTT-SANCHEZ	X		

11. DISCUSSION/ACTION ITEMS

b. Consideration of Bill No. 2021-2: An Ordinance Approving Global Management Performance (with Dalkia Energy Solutions, LLC, Subject to City Council Approval of a Separate Financing Transaction to Finance the Cost of the Global Management Performance Contract. (Mayor Alan Webber, Councilor Lindell and Councilor Rivera) (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, bjfluetsch@santafenm.gov, 955-6885)

Committee Review:

Public Works and Utilities Committee: 01/25/21

Governing Body (Request to Publish): 01/27/21

Finance Committee: 02/15/21

Governing Body (Public Hearing): 02/24/21

Name: Stefanie Beninato

Comment - 01/27/2021 10:41 AM: (No Vote)

What is the Global Management Performance Contract? It seems that a shell game is going on with money needed to complete these contracts. What is the underlying issue. A clear presentation on this is needed to promote transparency.



City of Santa Fe New Mexico

Memorandum



Date: January 28, 2021

To: Quality of Life Committee, Public Works and Utilities Committee, and the Governing Body

Via: Elias Isaacson, Planning and Land Use Director ESI
Sally Paez, Assistant City Attorney SAP

From: Jason M. Kluck, Assistant Land Use Director jmk

RE: Adoption of the 2018 New Mexico Energy Conservation Code with associated code cycle reference updates to the City Residential Green Building Code

EXECUTIVE SUMMARY:

The proposed legislation would amend the City's energy conservation code included in the City's Building Code, Subsection 7-1.1(A)(7), SFCC 1987. Specifically, the legislation would adopt the 2018 New Mexico Energy Conservation Code, which was already adopted by the State of New Mexico, Regulation and Licensing Department, Construction Industries Division on September 25, 2020. The 2018 New Mexico Energy Conservation Code adopted the 2018 International Energy Conservation Code, as amended. *See* 2018 New Mexico Residential Energy Conservation Code, 14.7.6 NMAC (5/27/2004, as amended through 9/25/2020); 2018 New Mexico Commercial Energy Conservation Code, 14.7.9 (9/25/2020). The proposed legislation also amends SFCC Section 7-4.2 – Residential Green Building Code to update associated code cycle references.

Under state law, the City's building codes must meet or exceed the requirements set forth in the State's building codes. *See* NMSA 1978, § 3-17-1(A) (providing that building codes adopted by municipalities may not conflict with New Mexico laws or valid regulations issued by a state agency and must provide for "minimum requirements at least equal to the state requirements on the same subject"); NMSA 1978, § 60-13-44 ("All political subdivisions of the state are subject to the provisions of codes adopted and approved under the Construction Industries Licensing Act. Such codes constitute a minimum requirement for the codes of political subdivisions."). The City is required to impose the new requirements no later than April 1, 2021. *See* 14.7.6.5 NMAC; 14.7.9.5 NMAC.

BACKGROUND:

Model energy codes for building construction are critical for increasing energy efficiency of new and remodeled buildings. These codes not only ensure a minimum standard of energy consumption, primarily through requirements that reduce heating, cooling, and lighting loads, but

they also impact safety and comfort through requirements for air ventilation and reducing moisture accumulation and mold. Building energy codes focus on three primary areas: building envelope, mechanical systems, and lighting systems. The building envelope includes roof, wall, and floor insulation; window, door, and skylight performance; and air leakage. Mechanical systems look at efficiency of space heating and cooling, water heating equipment, ventilation, system controls, and duct and pipe insulation. Lighting systems focus on efficiency of lighting equipment and requirements for lighting controls. Energy codes for new construction and remodeling also have important equity impacts by lowering utility bills for the poorest occupants and by increasing the quality and longevity of building construction, thus reducing overall maintenance costs. Energy efficiency measures generally result in significant direct utility cost savings, which can result in life cycle savings of more than quadruple the initial investment cost.

The City of Santa Fe has shown leadership in adopting advanced codes for energy efficiency. In 2009, Santa Fe adopted a residential green building code that required all new residences to get a Home Energy Rating Score (HERS) that meets a minimum threshold. The adoption of the 2018 energy code is projected to make new homes and commercial buildings approximately 20% more efficient than they were under the previous state code with multiple paths to meet performance criteria for more construction types. Residential construction will still meet the City's more stringent green code requirements without significant additional required measures and with an anticipated cost of less than 1% of the median home value in Santa Fe.

ACTION REQUESTED:

Staff recommends that the Committees should make a positive recommendation to the Governing Body concerning the proposed legislation and that the Governing Body should adopt the proposed legislation.

ATTACHMENTS:

Bill

Attachment A – 2018 New Mexico Residential Energy Conservation Code

Attachment B – 2018 New Mexico Commercial Energy Conservation Code

Attachment C – Analysis of changes from the 2009 to 2018 code

FIR

underscored material = new
[bracketed material] = delete

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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2021-__

INTRODUCED BY:

Councilor Jamie Cassutt-Sanchez

Councilor Roman “Tiger” Abeyta

AN ORDINANCE

AMENDING SECTION 7-1.1 SFCC 1987 TO ADOPT THE NEWEST VERSION OF THE INTERNATIONAL ENERGY CONSERVATION CODE AS ADOPTED AND AMENDED BY THE STATE OF NEW MEXICO CONSTRUCTION INDUSTRIES DIVISION; AND AMENDING SECTION 7-4.2 SFCC 1987, CITY OF SANTA FE GREEN BUILDING CODE, TO UPDATE CODE REFERENCES IN CONJUNCTION WITH THE ADOPTION OF THE 2018 INTERNATIONAL ENERGY CONSERVATION CODE AS ADOPTED AND AMENDED BY THE STATE OF NEW MEXICO CONSTRUCTION INDUSTRIES DIVISION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 7-1.1 of SFCC 1987 (being Ord. No. 2008-1, § 3, as amended)

is amended to read:

7-1.1 Adoption of codes.

A. For the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area,

1 unobstructed maintenance of required yards, and maintenance of buildings or structures within
2 the planning and platting jurisdiction of the city, the following provisions and codes are adopted
3 by reference and incorporated as fully as if set out herein unless otherwise amended by the city:

4 (1) Section 14.5.1 New Mexico Administrative Code (NMAC) General
5 Provisions;

6 (2) Section 14.5.2 New Mexico Administrative Code (NMAC) Permits;

7 (3) Section 14.5.3 New Mexico Administrative Code (NMAC) Inspections;

8 (4) 2015 New Mexico Commercial Building Code adopted by the state of
9 New Mexico construction industries division (NMAC 14.7.2), as may be amended from
10 time to time, which adopts and amends the International Building Code (IBC);

11 (5) 2015 New Mexico Residential Building Code adopted by the state of
12 New Mexico construction industries division (NMAC 14.7.3), as may be amended from
13 time to time, which adopts and amends the International Residential Code (IRC);

14 (6) 2015 New Mexico Earthen Building Materials Code adopted by the state
15 of New Mexico construction industries division (NMAC 14.7.4), as may be amended
16 from time to time;

17 (7) [~~2009~~] 2018 New Mexico Energy Conservation Code adopted by the
18 state of New Mexico construction industries division (NMAC 14.7.6, residential code;
19 and NMAC 14.7.9, commercial code), as may be amended from time to time, which
20 adopts and amends the International Energy Conservation Code (IECC);

21 (8) 2015 New Mexico Existing Building Code adopted by the state of New
22 Mexico construction industries division (NMAC 14.7.7), as may be amended from time
23 to time, which adopts and amends the International Existing Building Code (IEBC);

24 (9) 2015 New Mexico Historic Earthen Buildings code adopted by the state
25 of New Mexico construction industries division (NMAC 14.7.8), as may be amended

1 from time to time;

2 (10) 2015 New Mexico Plumbing Code adopted by the state of New Mexico
3 construction industries division (NMAC 14.8.2), as may be amended from time to time,
4 which adopts and amends the Uniform Plumbing Code (UPC), and as further amended
5 in Sections 7-1.8 and 7-1.9 SFCC 1987;

6 (11) 2012 New Mexico Swimming Pool, Spa, and Hot Tub Code adopted by
7 the state of New Mexico construction industries division (NMAC 14.8.3), as may be
8 amended from time to time, which adopts and amends the Uniform Swimming Pool, Spa,
9 and Hot Tub Code (USPSHTC);

10 (12) 2015 New Mexico Mechanical Code adopted by the state of New Mexico
11 construction industries division (NMAC 14.9.2), as may be amended from time to time,
12 which adopts and amends the Uniform Mechanical Code (UMC);

13 (13) 2012 New Mexico Solar Energy Code adopted by the state of New
14 Mexico construction industries division (NMAC 14.9.6), as may be amended from time
15 to time, which adopts and amends the Uniform Solar Energy Code (USEC);

16 (14) 2017 New Mexico Electrical Code adopted by the state of New Mexico
17 construction industries division (NMAC 14.10.4), as may be amended from time to time,
18 which adopts and amends the National Electrical Code (NEC); and

19 (15) 2012 New Mexico Electrical Safety Code adopted by the state of New
20 Mexico construction industries division (NMAC 14.10.5), as may be amended from time
21 to time, which adopts and amends the National Electrical Safety Code (NESC).

22 B. Any person violating or failing, neglecting, or refusing to comply with the
23 provisions of the codes set forth in paragraph A. above or the other requirements of this chapter
24 shall be subject to the enforcement provisions set forth in Sections 1-3 and 14-11 SFCC 1987.

1 C. A copy of the codes set forth in paragraph A. and this chapter shall be kept on
2 file in the office of building inspections and shall be available for public inspection at all
3 reasonable times.

4 **Section 2. Section 7-4.2 of SFCC 1987 (being Ord. No. 2009-9, § 3, as amended)**
5 **is amended to read:**

6 **7-4.2 Residential Green Building Code.**

7 A. *Purpose.* The purpose of this section is to:

8 (1) Provide criteria for rating the environmental performance of single-
9 family residential construction and site design practices and provide guidelines for
10 documentation that demonstrates conformance with those criteria;

11 (2) Encourage cost-effective and sustainable building methods by
12 encouraging conservation of fossil fuels, water and other natural resources, reduction of
13 greenhouse gas emissions, recycling of construction materials, reducing solid waste and
14 improving indoor air quality;

15 (3) Identify the specific requirements for complying with the requirements
16 of the Residential Green Building Code; and

17 (4) Encourage more aggressive green building development through
18 incentives and rewards to work toward the goals of the 2030 challenge as adopted by the
19 governing body by Resolution No. 2006-55.

20 B. *Residential Green Building Code; Applicability.*

21 (1) The provisions of the Santa Fe Residential Green Building Code shall
22 apply to:

23 (a) New single-family, attached and detached, residential units as
24 defined by the 2015 International Residential Code or its successor as adopted
25 by the city;

1 (b) Modular homes which are built off-site and brought onto the site,
2 provided that the land use director may approve exceptions to specific code
3 requirements upon a showing by the applicant or modular home supplier that
4 compliance would cause undue burden; and

5 (c) Residential additions that provide for living, sleeping, eating,
6 cooking and sanitation. Only the addition is subject to the code provisions, not
7 the existing structure.

8 (2) Upon request of an applicant, applications for permits submitted prior to
9 March 1, 2017, may be issued in compliance with the prior version of Residential Green
10 Building Code. The permit fee in paragraph F of this subsection shall apply.

11 C. *Relationship to Other Codes; Compliance; Exceptions.*

12 (1) The requirements of this section are in addition to and do not replace the
13 requirements of other sections of this chapter and other chapters of this Code, including
14 without limitation, all of the life safety codes, historic preservation ordinance, land
15 development code and adopted building codes and development standards.

16 (2) All submittals and approvals required under this Residential Green
17 Building Code shall be rendered in conjunction with a residential building permit
18 application and related field inspections. The application shall be on a form approved by
19 the land use director. The applicant shall demonstrate compliance with all of the
20 provisions of this section prior to the issuance of a certificate of occupancy by the land
21 use director.

22 (3) For a structure located in an historic overlay district where it can be
23 demonstrated that strict compliance with the requirements of this section cannot be
24 achieved without an exception to the historic overlay district requirements, the
25 requirements of this section may be adjusted so as to resolve the conflict between the two

1 (2) sections of the Code.

2 D. *Administration.*

3 (1) The land use director shall:

4 (a) Administer and enforce the Residential Green Building Code;

5 and

6 (b) Require an applicant for a building permit, to prepare and submit
7 Residential Green Building Code documentation to the green code administrator
8 or designee to assure compliance with this section.

9 E. *Requirements.*

10 (1) *Energy performance levels.* A documented analysis of the building's
11 energy performance using software in accordance with [~~2009 ICC IECC~~] 2018
12 International Code Council International Energy Conservation Code [“IECC”] Section
13 405 is required. A projected Home Energy Rating System (“HERS”) index, or equivalent,
14 shall be submitted as part of a building permit application and a report of the confirmed
15 HERS index, or equivalent, meeting the standards of this section is required prior to
16 issuance of a certificate of occupancy. The required HERS index for residences up to and
17 including three thousand (3,000) square feet of conditioned space shall be 65 until
18 January 1, 2018, when it shall be reduced to 60. The required HERS index for residences
19 over three thousand (3,000) feet of conditioned space shall be reduced by one point for
20 each one hundred (100) square feet of conditioned space over three thousand (3,000), or
21 pro-rata portion thereof, until the required HERS index is zero and shall be zero for those
22 and larger residences.

23 (2) *HERS raters.* HERS raters shall be certified to conduct HERS analysis
24 by passing educational courses and obtaining continuing education credits as required by
25 the land use director. In addition HERS raters shall:

1 (a) Confirm ventilation rates of the ventilation equipment used to
2 satisfy the required house ventilation and report the findings to the planning and
3 land use department;

4 (b) Supply a report that includes the building components
5 contributing to achievement of the required HERS index to be compared to the
6 building plans submitted for a building permit. Reports approved to supply this
7 information shall be approved by the land use director; and

8 (c) Supply an estimation of the greenhouse gas emissions avoided
9 and the electricity and natural gas usage avoided when submitting the final or
10 confirmed HERS index. Reports approved to supply this information shall be
11 approved by the land use director.

12 (3) *Building envelope insulation values.* Building insulation levels shall
13 meet the requirements of overall UA for ~~[2015]~~ 2018 IECC. A report of compliance shall
14 be provided to the city as part of a building permit application. Reports approved to
15 supply this information shall be approved by the land use director.

16 (4) *Building thermal envelope insulation confirmation.* The insulation
17 installers shall provide a certification complying with a template to be provided by the
18 planning and land use department listing the type, manufacturer and R-value of insulation
19 installed in each element of the building thermal envelope. For blown or sprayed
20 insulations (fiberglass and cellulose), the initial installed thickness, settled thickness,
21 settled R-value, installed density, coverage area and number of bags installed shall be
22 listed on the certification. For insulated siding, the R-value shall be listed on the product's
23 package and shall be listed on the certification. The insulation installer shall sign, date
24 and provide the certification in a conspicuous location on the job site. (Consistent with
25 2015 IRC Section N1101.10.1.)

1 (5) *Air sealing and insulation.* The air barrier and insulation installation
2 criteria from Table [~~402.4.2~~] 402.4.1.1 from the [~~2009 International Energy Conservation~~
3 ~~Code~~] 2018 IECC shall be visually inspected pursuant to Section [~~402.4.2.2~~] 402.4.1.1
4 whether or not the testing option from Section [~~402.4.2.1~~] 402.4.1.2 has been achieved.
5 Insulation values shall be verified to match those used to obtain the required HERS
6 rating.

7 (6) *Duct installation.* The installation instructions for heating, ventilation
8 and air conditioning equipment shall be made available to the inspector conducting the
9 duct installation inspection to ensure ducting meets the manufacture's specifications. It
10 shall be located on the equipment or in a conspicuous location adjacent to the equipment
11 to be easily located by the inspector.

12 (7) *Duct leakage.* Duct tightness shall be verified in accordance with [~~2009~~]
13 2018 IECC section [~~403.2.2~~] 403.3.4 and shall not exceed six (6) percent of total fan
14 flow.

15 (8) *Duct protection during construction.* All boots, ducts and ventilation
16 openings shall be sealed during construction to prevent dust and debris from entering
17 them and shall remain sealed until they are put into operation.

18 (9) *Water conservation levels.* Water conservation features are implemented
19 to achieve conservation performance shall be required. A documented analysis using the
20 water efficiency rating score (“WERS”) tool showing a maximum score of 70 shall be
21 submitted to the planning and land use department as part of a building permit application
22 and a report of the confirmed rating with a maximum score of 70 shall be submitted to
23 the planning and land use department prior to receiving a certificate of occupancy.

24 (10) *Whole-house mechanical ventilation requirement.* Mechanical
25 ventilation shall be required at a rate based on the following formula: required cubic feet

1 per minute of ventilation = (total heated floor area × .01) + ((number of bedrooms + 1) ×
2 7.5).

3 (11) *Heating and cooling equipment sizing and system design.*

4 (a) Heating and cooling equipment and appliances shall be sized in
5 accordance with Air Conditioning Contractors of America (“ACCA”) Manual S
6 or other approved sizing methodologies based on building loads calculated in
7 accordance with ACCA Manual J (version 8 or higher) or other approved heating
8 and cooling methodologies.

9 (b) Duct systems serving heating, cooling, and ventilation
10 equipment shall be designed and installed in accordance with ACCA Manual D,
11 the manufacturer's installation instructions or other approved methodologies.

12 (c) Radiant hydronic systems shall be designed using manufacturer's
13 recommendations, mechanical engineer design specifications or other approved
14 hydronic heating design methods, and shall include equipment specifications, the
15 number of zones, pipe diameter, length, and flow rate for each zone.

16 (d) ACCA Manual J and S, and Manual D and radiant design reports,
17 as applicable, along with an AHRI (Air-Conditioning, Heating and Refrigeration
18 Institute) certificate or equivalent mechanical equipment certification shall be
19 submitted to the planning and land use department either at time of building
20 permit application or no later than the completion of rough framing. Duct design
21 reports shall be submitted before ducts are installed. Radiant hydronic system in
22 concrete shall be submitted before installation.

23 (e) All HVAC documents submitted are subject to review and
24 approval by the land use director before installation. Other approved HVAC
25 design methodologies shall be approved by the land use director.

1 (12) Installation of a radon mitigation system consistent with Appendix F of
2 the 2015 International Residential Building Code.

3 (13) *Disclosure of building performance and homeowner's manual.* The
4 following items shall be documented and included in a homeowners manual provided to
5 the first homeowner and available for review for homes that are for sale on forms
6 provided by the land use director:

- 7 (a) The confirmed HERS index;
- 8 (b) The blower door result at ACH 50;
- 9 (c) The required amount of ventilation and the archived ventilation
10 rate in air changes per hour;
- 11 (d) The type of ventilation system used;
- 12 (e) The percentage better that the UA is above the [~~2015~~] 2018 IECC
13 maximum requirement;
- 14 (f) The confirmed WERS;
- 15 (g) A diagram showing the location of shut off valves for water,
16 electricity and any combustions fuels (natural gas or propane) with labels in
17 English and Spanish;
- 18 (h) The manuals for all major equipment and fixtures in English and
19 in Spanish if available; and
- 20 (i) All other homeowner manual items available from the planning
21 and land use department at the time of certificate of occupancy for that purpose.

22 F. *Permit Fee.*

23 [~~4~~] Applicants for residential building permits shall pay a green building
24 code permit fee of one hundred dollars (\$100.00) for each residential unit, subject to the
25 provisions for fee waivers under subsection 14-8.11(G)(2)(a).

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G. *Effective Date.*

[(+)] Section 7-4.1 SFCC 1987 shall be effective July 1, 2009.

APPROVED AS TO FORM:



ERIN K. McSHERRY, CITY ATTORNEY

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 7 BUILDING CODES GENERAL
PART 6 2018 NEW MEXICO RESIDENTIAL ENERGY CONSERVATION CODE

14.7.6.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.7.6.1 NMAC - Rp, 14.7.6.1 NMAC, 9/25/2020]

14.7.6.2 SCOPE: This rule applies to all residential contracting work performed in New Mexico on or after September 25, 2020, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.
[14.7.6.2 NMAC - Rp, 14.7.6.2 NMAC, 9/25/2020]

14.7.6.3 STATUTORY AUTHORITY: Sections 60-13-9 and 60-13-44 NMSA 1978.
[14.7.6.3 NMAC - Rp, 14.7.6.3 NMAC, 9/25/2020]

14.7.6.4 DURATION: Permanent.
[14.7.6.4 NMAC - Rp, 14.7.6.4 NMAC, 9/25/2020]

14.7.6.5 EFFECTIVE DATE: September 25, 2020 unless a later date is cited at the end of a section.
[14.7.6.5 NMAC - Rp, 14.7.6.5 NMAC, 9/25/2020]
[From the date of publication of this rule in the New Mexico register, until month 3/2021, permits may be issued under either the previously-adopted rule, or this rule. After month 3/2021, permits may be issued only under this rule.]

14.7.6.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for energy conservation for residential construction in New Mexico.
[14.7.6.6 NMAC - Rp, 14.7.6.6 NMAC, 9/25/2020]

14.7.6.7 DEFINITIONS: See 14.5.1 NMAC, General Provisions and Chapter 2 of the IECC as amended in 14.7.6.10 NMAC.
[14.7.6.7 NMAC - Rp, 14.7.6.7 NMAC, 9/25/2020]

14.7.6.8 ADOPTION OF THE 2018 NEW MEXICO RESIDENTIAL ENERGY CONSERVATION CODE:

- A.** This rule adopts by reference the 2018 international energy conservation code (IECC), as amended by this rule.
- B.** In this rule, each provision is numbered to correspond with the numbering of the 2018 international residential energy conservation code.
- C.** This rule is to be applied to each of the following New Mexico building codes, including the NMRBC, NMPC, NMMC and the NMEC.

[14.7.6.8 NMAC - Rp, 14.7.6.8 NMAC, 9/25/2020;

14.7.6.9 CHAPTER 1 - ADMINISTRATION:

- A. Section R101 - General.**
 - (1) R101.1 Title.** Delete this section of the IECC and substitute: this rule shall be known as 14.7.6 NMAC, the 2018 New Mexico Residential Energy Conservation Code (NMRECC).
 - (2) R101.2 Scope.** Delete this section of the IECC and see 14.7.6.2 NMAC, Scope.
 - (3) R101.3 Intent.** Delete this section of the IECC and see 14.7.6.6 NMAC, Objective.
 - (4) R101.5.1 Compliance materials.** Delete this section of the IECC and substitute the following: the code official shall be permitted to approve specific computer software, worksheets, compliance manuals and other similar materials that meet the intent of this code, including but not limited to ComCheck, ResCheck, and worksheet or trade-off sheets from the New Mexico energy conservation code residential applications manual, issued by the New Mexico department of energy.
- B. Section R102 Alternate Materials-Method of Construction, Design for Insulating Systems.** See this section of the IECC.

C. Section R103 Construction Documents. Delete this section of the IECC and see 14.5.2 NMAC, Permits except retain Section R103.2 as amended.

D. Section R103.2 Information on construction documents. Delete section and substitute the following: Ducts shall be installed in accordance with Chapter 6 and Chapter 17 of the New Mexico Mechanical Code and current applicable standards.

E. Section R104 Fees. Delete this section of the IECC and see 14.5.5 NMAC, Fees.

F. Section R105 Inspections. Delete this section of the IECC and see. 14.5.3 NMAC, General Provisions.

G. Section R106 Validity. Delete this section of the IECC and see. 14.5.2.12 NMAC Permits.

H. Section R107 Referenced Standards. All references to the international residential code shall be deemed references to 14.7.3 NMAC, the New Mexico Residential Building Code (NMRBC). All references to the international plumbing code shall be deemed references to 14.8.2 NMAC, the New Mexico Plumbing Code (NMPC). All references to the international mechanical code shall be deemed references to 14.9.2 NMAC, the New Mexico Mechanical Code (NMMC). All references to the ICC or International Electrical Code shall be deemed references to 14.10.4 NMAC, the New Mexico Electrical Code (NMEC). All references to the international energy conservation code shall be deemed references to 14.7.6 NMAC, the New Mexico Residential Energy Conservation Code (NMRECC). All references to the international fuel gas code in the 2018 IECC are deemed references to the NMMC or the LP gas standards found at 19.15.40 NMAC, and Sections 70-5-1 through 70-5-23 NMSA 1978.

I. Section R108 Stop Work Order. Delete this section of the IECC and see 14.5.3 NMAC, Inspections.

J. Section R109 Board of Appeals. Delete this section of the IECC and See 14.5.1 NMAC, General Provisions.
[14.7.6.9 NMAC - Rp, 14.7.6.9 NMAC, 9/25/2020;

14.7.6.10 CHAPTER 2 - DEFINITIONS: See this chapter of the IECC residential provisions, adding the following definitions.

A. Section R201.1 Scope. See this section of the IECC and add the following: If the same term is defined in the New Mexico construction codes and in the IECC, the term shall have the meaning given it in the New Mexico construction codes.

B. Section R201.3 Terms defined in other codes. Delete this section of the IECC and substitute with the following: Terms defined in the New Mexico Residential Construction Code.

C. Section R201.4 Terms not defined in other codes. See this chapter of the IECC.

D. Section R202 General Definitions. See this section of the IECC except as provided below.

(1) **Unconditioned space.** Add the following definition: Space within a building that is not mechanically heated or cooled and is outside the building thermal envelope.

(2) **Vapor retarder class.** Add the following definition: a measure of a material or assembly's ability to limit the amount of moisture that passes through that material or assembly. Vapor retarder class shall be defined using the desiccant method of ASTM E96 as follows:

- (a) **class I:** 0.1 perm or less;
- (b) **class II:** > 0.1 perm □ 1.0 perm;
- (c) **class III:** > 1.0 perm < 10 perm.

(3) **NMRECC** means 2018 New Mexico Residential Energy Conservation Code.

(4) **NMRBC** means 14.7.3 NMAC, 2015 New Mexico Residential Building Code, which adopts by reference and amends the 2015 International Residential code.

(5) **NMPC** means 2015 New Mexico Plumbing Code, which adopts by reference and amends the 2015 Uniform Plumbing Code.

(6) **NMMC** means 14.9.2 NMAC, NMMC 2015 New Mexico Mechanical Code, which adopts by reference and amends the 2015 Uniform Mechanical Code.

(7) **NMEC** means 14.10.4 NMAC, NMEC 2017 New Mexico Electrical Code, which adopts by reference and amends the 2017 National Electrical Code.

(8) **RESNET Software.** Is an approved software program to meet the performance requirements of the IECC.

(9) **COMCHECK.** Is the residential energy compliance tool designed by the U.S. department of energy (DOE) to clarify residential energy code compliance providing a user information whether building meets the requirements of the International Energy Conservation Code (IECC) and ASHRAE 90.1, as well as state-specific codes.

(10) **RESCHECK.** A document describing the overall efficiency of the insulation of a building which works by performing a simple U-factor x Area (UA) calculation for each building assembly to determine the overall UA of a building. The UA of the proposed project building is compared to the code requirements.

(11) **ASTM.** Means the American society for testing and materials, an international standards organization that develops and publishes voluntary consensus building technical standards for a wide range of materials utilized in construction.

(12) **HERS.** Means the home energy rating system index and is the industry standard by which a home's energy efficiency is measured. It is also the nationally recognized system for inspecting and calculating a home's energy performance.

[14.7.6.10 NMAC - Rp, 14.7.6.10 NMAC, 9/25/2020]

14.7.6.11 CHAPTER R301 - CLIMATE ZONES: See this Chapter of the IECC except delete the text of section 301.1 General and replace with the following: the table below in conjunction with Table 301.3(2) shall be used to determine the applicable requirements for Chapters 4. Locations not listed in the table below shall use either Table 301.1, Section 301.3, or the building official may designate a climate zone consistent with the elevation, HDD & CDD from the table below.

City	County	Elev. (feet)	Heating Degree Days (HDD) 65°F	Cooling Degree Days (CDD) 50°F day	Climate Zone
Abiquiu Dam	Rio Arriba	6380	5872		5B
Angel Fire	Colfax	8406	9769	195	7B
Alamogordo	Otero	4350	3053	5309	3B
Albuquerque	Bernalillo	5312	4332	4462	4B
Artesia	Eddy	3380	3366	5374	3B
Aztec Ruins	San Juan	5644	5757		5B
Belen	Valencia	4800	4432	5012	3B
Bernalillo	Sandoval	5052	4782	4138	4B
Bloomfield	San Juan	5456	5490		5B
Bosque del Apache	Socorro	4520	3916	5012	3B
Carlsbad	Eddy	3295	2813	5997	3B
Carrizozo	Lincoln	5438	4234	3631	4B
Cedar Crest	Bernalillo	6581	5703		5B
Chaco Canyon	San Juan	6200	6137		5B
Chama	Rio Arriba	7871	8254		6B
Clayton	Union	5056	5150	3170	4B
Cloudcroft	Otero	8801	7205		6B
Clovis	Curry	4268	4033	4252	4B
Corona	Valencia	6690	5389	3631	4B
Cuba	Sandoval	7035	7122		5B
Deming	Luna	4305	3347	5292	3B
Dulce	Rio Arriba	6793	7979		6B
Eagle Nest	Colfax	8262	9254		7B
Edgewood	Santa Fe	6649	6146		5B
Espanola	Rio Arriba	5643	5641		5B
Farmington	San Juan	5395	5747		5B

Fence Lake	Cibola	7055	6396		5B
Fort Sumner	De Baca	4032	3799	4616	3B
Gallup	McKinley	6465	6207		5B
Glenwood	Catron	4725	3632	4427	4B
Grants	Cibola	6460	6143		5B
Hatch	Dona Ana	4052	3270	5904	3B
Hobbs	Lea	3622	2954	5181	3B
Jemez Springs	Sandoval	6198	5260	2059	4B
Las Cruces	Dona Ana	4000	3223	5904	3B
Las Vegas	San Miguel	6424	5738		5B
Lordsburg	Hidalgo	4250	3213	5210	3B
Los Alamos	Los Alamos	7320	6381		5B
Los Lunas	Valencia	4856	4725	4462	4B
Magdalena	Socorro	6572	5074	2093	4B
Mescalero	Otero	6611	5540		5B
Moriarty	Torrance	6220	4735	3786	4B
Mosquero	Harding	5485	5209	3631	4B
Mountainair	Torrance	6520	5558		5B
Organ	Dona Ana	5245	3215	4919	3B
Placitas	Sandoval	5955	4917	3701	4B
Portales	Roosevelt	4006	3845	4347	4B
Raton	Colfax	6680	6001		5B
Red River	Taos	8671	8742	179	7B
Reserve	Catron	5847	5483		5B
Rio Rancho	Sandoval	5282	4880	3949	4B
Roswell	Chaves	3573	3565	5505	3B
Ruidoso	Lincoln	6920	6309		5B
Sandia Crest	Bernalillo	10680	10034		7B
Sandia Park	Bernalillo	7077	7510		6B
Santa Fe	Santa Fe	7260	6001		5B
Santa Rosa	Guadalupe	4620	3749	4714	3B
Shiprock	San Juan	4892	5475		5B
Silver City	Grant	5895	4438	3975	4B
Socorro	Socorro	4603	3984	5147	3B
Springer	Colfax	5797	5653		5B
Taos	Taos	6967	6827		5B
Taos Ski Valley	Taos	9321	9769		7B
Tatum	Lea	3999	3680	4721	3B
Thoreau	McKinley	7200	5789		5B
Tierra Amarilla	Rio Arriba	7425	7901		6B
Tijeras	Bernalillo	6322	6338		5B
Tohatchi	McKinley	6447	5418		5B
Truth or Consequences	Sierra	4245	3394	5103	3B
Tucumcari	Quay	4096	3767	4429	4B
Tularosa	Otero	4508	3056	5130	3B

Zuni	McKinley	6293	5742		5B
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[14.7.6.11 NMAC - Rp, 14.7.6.11 NMAC, 9/25/2020]

14.7.6.12 CHAPTER 4 - RESIDENTIAL ENERGY EFFICIENCY: See this Chapter of the IECC except for the following:

A. R401.2 Compliance. Delete the text of this section and replace with the following: projects shall comply with 401 through 404, which are mandatory provisions, and additionally comply with one of the following:

(1) Documents showing 2018 IECC Code Compliance, residential provisions approved by CID or worksheet trade-off sheets from the New Mexico energy conservation code residential applications manual; or

(2) Section R405.

(3) The energy rating index (ERI) approach in Section R406.

(4) The approved sampling protocols included in Chapter 6 of the National Standard for Home Energy Ratings.

(5) Code programs recognized by the state of New Mexico such as Build Green New Mexico or LEED-H, approved under IECC section 102.1.1, except strike the last sentence that reads: The requirements identified as “mandatory” in Chapter 4 shall be met.

B. R402.2.8 Floors. Delete the text of this section and replace with the following: Floor framing-cavity insulation when separating conditioned and non-conditioned space shall be installed to maintain permanent contact with the underside of the subfloor decking.

Exception: As an alternative, the floor framing-cavity insulation shall be in contact with the topside of sheathing or continuous insulation installed on the bottom side of floor framing where combined with insulation that meets or exceeds the minimum wood frame wall R-value in Table R402.1.2 and that extends from the bottom to the top of all perimeter floor-framing members.

C. R402.4.1 Building thermal envelope. Amending to read as follows: The building thermal envelope shall comply with Sections R402.4.1.1 and R402.4.1.3 with optional compliance of R402.4.1.2 by all counties not mentioned in subsection F below.

D. R402.4.1.2 Testing. Amend to read as follows: The building or dwelling unit shall be tested and verified as having an air leakage rate not exceeding four air changes per hour in Climate Zones 1 thru 8. Testing shall be conducted in accordance with RESNET/ICC 380, ASTM E779 or ASTM E1827 and reported at a pressure of 0.2 inch w.g. (50 Pascals).

E. R402.4.1.3 Visual Inspection Option. Add the following section: Building envelope tightness, and insulation installation shall be considered acceptable with the items listed in Table 402.1.2 applicable to the method of construction, if field verified by either the builder, a code official, or an energy rater using the state of New Mexico acceptable processes. Acceptable processes include a thermal bypass visual inspection checklist, a thermal bypass certification or checklist from a HERS rater, a Build green NM checklist, or an energy star program checklist from the New Mexico Energy, Minerals and Natural Resources Department.

F. R402.4.1.4 Based on census. Add new section to read as follows: Based on census rural urban mapping the following areas will be required to comply with R402.4.1, R402.4.1.2 Testing and R403.3.3 Duct testing: San Juan County, Sandoval County, Santa Fe County, Bernalillo County, Torrance County, and Dona County.

G. R402.4.1.5 State of New Mexico Thermal Bypass Inspection Checklist and Duct Sealing Visual Inspection Checklist. Add new section to read as follows: In accordance with section R402.4.1, R402.4.1.2 and R403.3.3 thermal bypass inspection checklist and Duct Sealing Visual Inspection Checklist will be provided at the time of issuance of building permit or can also be accessed at www.rld.State.nm.us/construction under forms and applications.

H. R403.1.1 Programmable thermostat. The thermostat controlling the primary heating or cooling system of the dwelling unit shall be capable of controlling the heating and cooling system on a daily schedule to maintain different temperature setpoints at different times of the day. This thermostat shall include the capability to set back or temporarily operate the system to maintain zone temperatures of not less than 55°F (13°C) to not greater than 85°F (29°C). The thermostat shall be programmed initially by the manufacturer with a heating temperature setpoint of not greater than 70°F (21°C) and a cooling temperature setpoint of not less than 78°F.

Exceptions:

(1) When a water circulation system is utilized to heat and/or cool the residence, no programmable set back thermostat is required.

(2) Where the home is registered in a performance-based certification program, the

requirements for a programmable thermostat shall be waived.

(3) Where approved alternative methods of construction and/or materials are being used, programmable thermostats may be omitted.

I. R403.3.3 Duct testing (Mandatory). Add the following Exception: (3.) Duct sealing shall be considered in compliance with R403.3.3 when field, verified by either the builder, a code official, or an energy rater using the state of New Mexico duct sealing visual inspection checklist.

J. R403.4 Mechanical system piping insulation (Mandatory). Add the following Exception: In-floor radiant heating or cooling systems do not require insulation.
[14.7.6.12 NMAC - Rp, 14.7.6.12 NMAC, 9/25/2020]

14.7.6.13 CHAPTER 5 - BUILDINGS: See this Chapter of the IECC.
[14.7.6.13 NMAC - Rp 14.7.6.13 NMAC, 9/25/2020]

14.7.6.14 CHAPTER 6 - REFERENCED STANDARDS: See this Chapter of the IECC.
[14.7.6.14 NMAC - Rp 14.7.6.14 NMAC, 9/25/2020]

HISTORY OF 14.7.6 NMAC:

Pre NMAC History: None.

History of Repealed Material:

14.7.6 NMAC, 2003 New Mexico Energy Conservation Code (filed 5/27/2004) repealed 1/7/2004.
14.7.6 NMAC, 2006 New Mexico Energy Conservation Code (filed 8/16/2007) repealed 1/28/2011.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 12/28/2010) repealed 8/1/2011.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/15/2011) repealed 6/28/2013.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/28/2013) repealed 9/25/2020.

NMAC History:

14.7.6 NMAC, 2003 New Mexico Energy Conservation Code (filed 5/27/2004) replaced by 14.7.6 NMAC, 2006 New Mexico Energy Conservation Code, effective 1/1/2008.
14.7.6 NMAC, 2006 New Mexico Energy Conservation Code (filed 8/16/2007) replaced by 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code, effective 1/28/2011.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 12/28/2010) replaced by 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code, effective 8/1/2011.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/15/2011) replaced by 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code, effective 6/28/2013.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/28/2013) replaced by 14.7.6 NMAC, 2018 New Mexico Energy Conservation Code, effective 9/25/2020.

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 7 BUILDING CODES GENERAL
PART 9 2018 NEW MEXICO COMMERCIAL ENERGY CONSERVATION CODE

14.7.9.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.7.9.1 NMAC – N, 9/25/2020]

14.7.9.2 SCOPE: This rule applies to all commercial contracting work performed in New Mexico on or after 9/25/2020, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.
[14.7.9.2 NMAC – N, 9/25/2020]

14.7.9.3 STATUTORY AUTHORITY: Sections 60-13-9 and 60-13-44 NMSA 1978.
[14.7.9.3 NMAC – N, 9/25/2020]

14.7.9.4 DURATION: Permanent.
[14.7.9.4 NMAC, 9/25/2020]

14.7.9.5 EFFECTIVE DATE: September 25, 2020 unless a later date is cited at the end of a section.
[14.7.9.5 NMAC – N, 9/25/2020]
[From the date of publication of this rule in the New Mexico register, until month 3/2021 permits may be issued under either the previously-adopted rule, or this rule. After month 3/2021, permits may be issued only under this rule.]

14.7.9.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for energy conservation for commercial construction in New Mexico.
[14.7.9.6 NMAC – N, 9/25/2020]

14.7.9.7 DEFINITIONS: See 14.5.1 NMAC, General Provisions and Chapter 2 of the IECC as amended in 14.7.6.10 NMAC.
[14.7.9.7 NMAC - N, 9/25/2020]

14.7.9.8 ADOPTION OF THE 2018 NEW MEXICO COMMERCIAL ENERGY CONSERVATION CODE:

A. This rule adopts by reference the 2018 international energy conservation code (IECC) commercial provisions, as amended by this rule.

B. In this rule, each provision is numbered to correspond with the numbering of the 2018 international commercial energy conservation code.

C. This rule is to be applied where appropriate to each of the following New Mexico building codes, including the NMCBC, NMEBC, NMPC, NMMC and the NMEC.

[14.7.9.8 NMAC - N, 9/25/2020]

14.7.9.9 CHAPTER 1 - ADMINISTRATION:

A. Section C101 - General.

(1) C101.1 Title. Delete this section of the IECC and substitute: this rule shall be known as 14.7.6 NMAC, the 2018 New Mexico Commercial Energy Conservation Code (MCECC).

(2) C101.2 Scope. Delete this section of the IECC and see 14.7.9.2 NMAC, Scope.

(3) C101.3 Intent. Delete this section of the IECC and see 14.7.9.6 NMAC, Objective.

(4) C101.5.1 Compliance materials. Delete this section of the IECC and substitute the following: the code official shall be permitted to approve specific computer software, worksheets, compliance manuals and other similar materials that meet the intent of this code, including but not limited to ComCheck, ResCheck, and worksheet or trade-off sheets from the New Mexico energy conservation code commercial applications manual issued by the New Mexico department of energy.

B. Section C102 Alternate Materials-Method of Construction, Design for Insulating Systems. See this section of the IECC.

C. Section C103 - Construction Documents. Delete this section of the IECC and see 14.5.2 NMAC, Permits except retain Section C103.2 and C103.6 to read as follows:

D. Section C103.2 Information on construction documents. Delete section and substitute the following: Ducts shall be installed in accordance with Chapter 6 and Chapter 17 of the New Mexico Mechanical Code and current applicable standards.

E. Section C103.6 Building documentation and closeout submittal requirements. Delete section and substitute the following: The construction documents shall specify that the documents described in this section be provided to the building owner or owner's authorized agent.

F. Section C104 Fees. Delete this section of the IECC and see 14.5.5 NMAC, Fees.

G. Section C105 Inspections. Delete this section of the IECC and see. 14.5.3 NMAC, General Provisions.

H. Section C106 Validity. Delete this section of the IECC and see. 14.5.2.12 NMAC, Permits.

I. Section C107 Referenced Standards. All references in the IECC to the international building code shall be deemed references to 14.7.2 NMAC, the New Mexico Commercial Building Code (NMCBC). All references to the international plumbing code shall be deemed references to 14.8.2 NMAC, the New Mexico Plumbing Code (NMPC). All references to the international mechanical code shall be deemed references to 14.9.2 NMAC, the New Mexico Mechanical Code (NMMC). All references to the ICC or international electrical code shall be deemed references to 14.10.4 NMAC, the New Mexico Electrical Code (NMEC). All references to the international energy conservation code shall be deemed references to 14.7.9 NMAC, the New Mexico Commercial Energy Conservation Code (NMCECC). All references to the international fuel gas code are deemed references to the NMMC or the LP gas standards found at 19.15.40 NMAC, and Sections 70-5-1 through 70-5-23 NMSA 1978.

I. Section C108 Stop Work Order. Delete this section of the IECC and see 14.5.3 NMAC, Inspections.

J. Section C109 Board of Appeals. Delete this section of the IECC and See 14.5.1 NMAC, General Provisions.

[14.7.6.9 NMAC – N, 9/25/2020]

14.7.9.10 CHAPTER 2 - DEFINITIONS: See this chapter of the IECC substituting the definition for residential building and adding the other definitions.

A. Section C201.1 Scope. See this section of the IECC and add the following: If the same term is defined in the New Mexico construction codes and in the IECC, the term shall have the meaning given it in the New Mexico construction codes.

B. Section C201.3 Terms defined in other codes. Delete this section of the IECC and substitute with the following: Terms defined in the New Mexico Commercial Construction Code and the New Mexico Existing Building Code.

C. Section C202 General Definitions. See this section of the IECC and additionally the following:
(1) Unconditioned space. Add the following definition: Space within a building that is not mechanically heated or cooled and is outside the building thermal envelope.

(2) Vapor retarder class. Add the following definition: a measure of a material or assembly's ability to limit the amount of moisture that passes through that material or assembly. Vapor retarder class shall be defined using the desiccant method of ASTM E96 as follows:

- (a) class I:** 0.1 perm or less;
- (b) class II:** > 0.1 perm □ 1.0 perm;
- (c) class III:** > 1.0 perm < 10 perm.

(3) NMCECC means 2018 New Mexico Commercial Energy Conservation Code, which adopts by reference and amends the 2009 International Energy Conservation Code.

(4) NMCBC 14.7.3 NMAC, 2015 New Mexico Commercial Building Code, which adopts by reference and amends the 2015 International Commercial Code.

(5) NMEBC means the 2015 New Mexico Existing Building Code, which adopts by reference and amends the 2015 International Existing Building Code.

(6) NMPC means 2015 New Mexico Plumbing Code, which adopts by reference and amends the 2012 Uniform Plumbing Code.

(7) NMMC means 14.9.2 NMAC, NMMC 2015 New Mexico Mechanical Code, which adopts by reference and amends the 2012 Uniform Mechanical Code.

(8) NMEC means 14.10.4 NMAC, NMEC 2017 New Mexico Electrical Code, which adopts by reference and amends the 2017 National Electrical Code.

(9) **RESNET Software** is an approved software program to meet the performance requirements of the IECC.

(10) **COMCHECK** is the commercial energy compliance tool of the U.S. Department of Energy designed to clarify commercial energy code compliance providing a user information whether or not a building meets the requirements of the International Energy Conservation Code (IECC) and ASHRAE 90.1, as well as state-specific codes.

(11) **RESCHECK** is a document describing the overall efficiency of the insulation of a building which works by performing a simple U-factor x Area (UA) calculation for each building assembly to determine the overall UA of a building. The UA of the proposed project building is compared to the code requirements.

(12) **ASTM** means the American society for testing and materials, is an international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials utilized in construction.

(13) **HERS** means the home energy rating system index and is the industry standard by which a home's energy efficiency is measured. It's also the nationally recognized system for inspecting and calculating a home's energy performance.

[14.7.9.10 NMAC, N, 9/25/2020]

14.7.9.11 CHAPTER C301 - CLIMATE ZONES: See this Chapter of the IECC except delete the text of section 301.1 General and replace with the following: the table below in conjunction with Table 301.3(2) shall be used to determine the applicable requirements for Chapter 4. Locations not listed in the table below shall use either Table 301.1, Section 301.3 or the building official may designate a climate zone consistent with the elevation, HDD & CDD from the table below.

City	County	Elev. (feet)	Heating Degree Days (HDD) 65°F	Cooling Degree Days (CDD) 50°F day	Climate Zone
Abiquiu Dam	Rio Arriba	6380	5872		5B
Angel Fire	Colfax	8406	9769	195	7B
Alamogordo	Otero	4350	3053	5309	3B
Albuquerque	Bernalillo	5312	4332	4462	4B
Artesia	Eddy	3380	3366	5374	3B
Aztec Ruins	San Juan	5644	5757		5B
Belen	Valencia	4800	4432	5012	3B
Bernalillo	Sandoval	5052	4782	4138	4B
Bloomfield	San Juan	5456	5490		5B
Bosque del Apache	Socorro	4520	3916	5012	3B
Carlsbad	Eddy	3295	2813	5997	3B
Carrizozo	Lincoln	5438	4234	3631	4B
Cedar Crest	Bernalillo	6581	5703		5B
Chaco Canyon	San Juan	6200	6137		5B
Chama	Rio Arriba	7871	8254		6B
Clayton	Union	5056	5150	3170	4B
Cloudcroft	Otero	8801	7205		6B
Clovis	Curry	4268	4033	4252	4B
Corona	Valencia	6690	5389	3631	4B
Cuba	Sandoval	7035	7122		5B
Deming	Luna	4305	3347	5292	3B

Dulce	Rio Arriba	6793	7979		6B
Eagle Nest	Colfax	8262	9254		7B
Edgewood	Santa Fe	6649	6146		5B
Espanola	Rio Arriba	5643	5641		5B
Farmington	San Juan	5395	5747		5B
Fence Lake	Cibola	7055	6396		5B
Fort Sumner	De Baca	4032	3799	4616	3B
Gallup	McKinley	6465	6207		5B
Glenwood	Catron	4725	3632	4427	4B
Grants	Cibola	6460	6143		5B
Hatch	Dona Ana	4052	3270	5904	3B
Hobbs	Lea	3622	2954	5181	3B
Jemez Springs	Sandoval	6198	5260	2059	4B
Las Cruces	Dona Ana	4000	3223	5904	3B
Las Vegas	San Miguel	6424	5738		5B
Lordsburg	Hidalgo	4250	3213	5210	3B
Los Alamos	Los Alamos	7320	6381		5B
Los Lunas	Valencia	4856	4725	4462	4B
Magdalena	Socorro	6572	5074	2093	4B
Mescalero	Otero	6611	5540		5B
Moriarty	Torrance	6220	4735	3786	4B
Mosquero	Harding	5485	5209	3631	4B
Mountainair	Torrance	6520	5558		5B
Organ	Dona Ana	5245	3215	4919	3B
Placitas	Sandoval	5955	4917	3701	4B
Portales	Roosevelt	4006	3845	4347	4B
Raton	Colfax	6680	6001		5B
Red River	Taos	8671	8742	179	7B
Reserve	Catron	5847	5483		5B
Rio Rancho	Sandoval	5282	4880	3949	4B
Roswell	Chaves	3573	3565	5505	3B
Ruidoso	Lincoln	6920	6309		5B
Sandia Crest	Bernalillo	10680	10034		7B
Sandia Park	Bernalillo	7077	7510		6B
Santa Fe	Santa Fe	7260	6001		5B
Santa Rosa	Guadalupe	4620	3749	4714	3B
Shiprock	San Juan	4892	5475		5B
Silver City	Grant	5895	4438	3975	4B
Socorro	Socorro	4603	3984	5147	3B
Springer	Colfax	5797	5653		5B
Taos	Taos	6967	6827		5B
Taos Ski Valley	Taos	9321	9769		7B
Tatum	Lea	3999	3680	4721	3B
Thoreau	McKinley	7200	5789		5B
Tierra Amarilla	Rio Arriba	7425	7901		6B

Tijeras	Bernalillo	6322	6338		5B
Tohatchi	McKinley	6447	5418		5B
Truth or Consequences	Sierra	4245	3394	5103	3B
Tucumcari	Quay	4096	3767	4429	4B
Tularosa	Otero	4508	3056	5130	3B
Zuni	McKinley	6293	5742		5B

[14.7.9.11 NMAC – N, 9/25/2020]

14.7.9.12 CHAPTER 4 - COMMERCIAL ENERGY EFFICIENCY: See this Chapter of the IECC except for the following:

A. Section C402.4.2.1 Lighting controls in toplit daylight zones. Delete section without substitution.

B. Section C405.2.3.3 Toplit zone. Delete section without substitution.

C. Section C405.5 Dwelling electrical meter (Mandatory). Amend to read as follows: Each dwelling unit located in a Group R-2 building shall have a separate electrical meter. Dormitories, fraternities, sororities, monasteries, and convents shall be exempt from the requirements of this section.

D. Section C405.9 Voltage drop in branch circuits supplying motors or motor driven mechanical equipment with a rating of 50 HP and higher. Amending to read as follows: The total voltage drop across branch circuits supplying motors or motor driven mechanical equipment with rating of 50 HP and higher shall not exceed 5 percent.

E. C408.2 Mechanical systems and service water-heating systems commissioning and completion requirements. Amending to read as follows: Prior to the final mechanical and plumbing inspections, the registered design professional or approved agency, shall provide evidence of mechanical systems commissioning and completion in accordance with the provisions of this section. Construction document notes shall clearly indicate provisions for commissioning requirements in accordance with this section and are permitted to refer to specifications for further requirements. Copies of all documentation shall be given to the building owner or owner’s authorized agent.

Exceptions: The following systems are exempt:

(1) Mechanical systems and service water heater systems in buildings where the total mechanical equipment capacity is less than 480,000 Btu/h (140.7 kW) cooling capacity and 600,000 Btu/h (175.8 kW) combined service water-heating and space-heating capacity.

(2) Systems included in Section C403.5 that serve individual dwelling units and sleeping units.

F. C408.2.4.1 Acceptance of report. Delete section without substitution.

G. C408.2.4.2 Copy of report. Delete section without substitution.

H. C408.2.5 Documentation requirements. Change section to read as follows. The construction documents shall specify that the documents described in this section be provided to the building owner or owner’s authorized agent.

I. C408.3.2 Documentation Requirements. Change section to read as follows: The construction documents shall specify that the documents described in this section be provided to the building owner or owner’s authorized agent.

**FIGURE C408.2.4
COMMISSIONING COMPLIANCE CHECKLIST**

Project Information: _____ Project Name: _____

Project Address: _____

Commissioning Authority: _____

Commissioning Plan (Section C408.2.1)

- Commissioning Plan was used during construction and includes all items required by Section C408.2.1
- Systems Adjusting and Balancing shall be completed per plans and specifications.
- HVAC Equipment Functional Testing shall be completed per plans and specifications.
- HVAC Controls Functional Testing shall be completed per plans and specifications.
- Economizer Functional Testing shall be completed per plans and specifications.
- Lighting Controls Functional Testing shall be completed per plans and specifications.
- Service Water Heating System Functional Testing shall be completed per plans and specifications.
- Manual, record documents and training shall be completed per plans and specifications.
- Preliminary Commissioning Report shall be submitted to owner and includes all items required by Section C408.2.4.
- The above-referenced items are scheduled to be provided on:

I, the commissioning provider, do hereby certify that I am providing the owner or owner’s representative with documentation as to the mechanical, service water heating and lighting systems commissioning in accordance with the 2018 IECC.

Signature of Commissioning Provider

Date

Signature of Building Owner/Owner’s Representative

Date

[14.7.6.12 NMAC – N, 9/25/2020]

14.7.9.13 CHAPTER 5 - EXISTING BUILDINGS: See this Chapter of the IECC.

[14.7.9.13 NMAC - N, 9/25/2020]

14.7.9.14 CHAPTER 6 - REFERENCED STANDARDS: See this Chapter of the IECC.

[14.7.9.14 NMAC – N, 9/25/2020]

HISTORY OF 14.7.9 NMAC: [RESERVED]

Summary of Significant Changes – 2009 to 2018 IECC as amended & adopted by State of NM

Residential

- Envelope leakage testing and duct leakage testing (with added exceptions by the State) are required.
- Duct and envelope testing requirements are more stringent than in the 2009 IECC.
- Improved window performance with prescriptive path
- Building thermal envelope UA (overall home thermal transmittance value) alternative enhanced requirements
- Efficient lighting requirement has changed from 50% to 90%
- Hot water piping insulation requirement increased
- Energy Rating Index (ERI) performance path added (not equivalent to HERS and will not be allowed under current City Green Code requirements).

Commercial

- Commissioning - HVAC and water heating functional testing by 3rd party commissioning agency required
- Building energy performance compliance report required for building permitting
- HVAC – new equipment efficiencies, additional requirements for ventilation systems and lighting
- Water heating – improved efficiency and controls
- Lighting – enhanced occupancy sensors and daylighting controls requirements

FISCAL IMPACT REPORT

General Information:

(Check) Bill: Resolution: _____

Short Title(s): Energy Conservation Code and City Green Code Updates

Sponsor(s): Councilors Cassutt-Sanchez and Abeyta

Reviewing Department(s): Planning and Land Use Department

Staff Completing FIR: Jason Kluck Date: 1/14/2021 Phone: 955-6729

Reviewed by City Attorney:  Date: Jan 28, 2021

Reviewed by Finance Director: _____ Date: _____

Summary:

The Bill amends Section 7-1 SFCC 1987 to adopt the most recent version of the New Mexico Energy Conservation Code and amends Section 7-4.2 SFCC 1987, City Green Building Code, to update code cycle references in conjunction with the adoption of the 2018 IECC as amended by the State.

Departments Affected:

Planning and Land Use Department

Consequences of Not Enacting Legislation:

The City would continue to use outdated codes that do not meet or exceed the minimum requirements adopted by the State of New Mexico, which would cause the City to be out of compliance with state statute.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

None identified. This code regulates various aspects of new and existing building construction. The proposed legislation would adopt, by reference, the 2018 New Mexico Energy Conservation Code, which was recently adopted by the State Construction Industries Division, so that the City can enforce this updated building code, as required by law. The proposed legislation would also update code cycle references in the City Green Code to align with the 2018 IECC as amended by the State.

Performance and Administrative Implications:

No negative implications are expected. The legislation will not affect residential construction because the City's residential Green Building Code is currently more stringent than the proposed new code. The impact to commercial building will be consistent with that resulting from the state-wide adoption of the 2018 code, and the legislation will reduce overall energy consumption caused by the use of affected buildings.

Fiscal Implications:

None identified for the City.

Fiscal Impact

Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
<u>Personnel and</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Benefits*</u>							
<u>Capital Outlay</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Contractual/</u>	\$ _____	\$ _____	\$ _____		_____	_____	
<u>Professional Services</u>							
<u>Operating</u>	\$ _____	\$ _____	\$ _____		_____	_____	\$ _____
<u>Total:</u>	\$ _____	\$ _____	\$ _____				\$ _____

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

Revenue

Revenue Type	FYE __	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

Revenue Narrative:

Signature: Jason M. Kluck
Jason M. Kluck (Jan 28, 2021 09:38 MST)

Email: jmkluck@santafenm.gov

Signature: Elias Isaacson
Elias Isaacson (Jan 28, 2021 10:55 MST)

Email: esisaacson@santafenm.gov

Signature: Sally Paez
Sally A Paez (Jan 28, 2021 11:48 MST)

Email: sapaez@santafenm.gov

ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 02/03/2021
FOR CITY COUNCIL MEETING OF 03/10/2021

ISSUE:

Consideration of Resolution No. 2021-__: A Resolution Requesting the National Nuclear Security Administration Prepare and Complete a New Site-Wide Environmental Impact Statement for Los Alamos National Laboratory Before Expanding Plutonium Pit Production at the Facility. (Councilors Villarreal and Lindell) (Jesse Guillen, Legislative Liaison: jbg Guillen@santafenm.gov, 955-8518)

Committee Review:

Quality of Life Committee: 2/3/21

Governing Body: 2/10/21

QUALITY OF LIFE COMMITTEE ACTION: Approved on consent.

SPECIAL CONDITIONS OR AMENDMENTS:

SEND TO:

Governing Body

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON ROMERO-WIRTH	X		
COUNCILOR VILLARREAL	X		
COUNCILOR RIVERA	X		
COUNCILOR GARCIA	X		
COUNCILOR CASSUTT-SANCHEZ	X		

11. **DISCUSSION/ACTION ITEMS**

a. CONSIDERATION OF RESOLUTION NO. 2021-____. (Councilor Villarreal and Councilor Lir A Resolution Requesting the National Nuclear Security Administration Prepare and Complete a New Site-Wide Environmental Impact Statement for Los Alamos National Laboratory Before Expanding Plutonium Pit Production at the Facility. (Jesse Guillen, Legislative Liaison, jbg Guillen@santafenm.gov, 955-6518)

COMMITTEE REVIEW:

Quality of Life Committee: 02/3/21

Governing Body: 02/10/21

Name: Stefanie Beninato

Comment - 02/10/2021 06:28 AM: (For)

All for nuclear safety. Too many examples of careless handling of material or excessive emissions to think that LANL will be as conscious as it needs to be to protect surrounding communities. I understand from Greg Mello that this type of review should have been required under the EPA.

Name: Lydia Clark

Comment - 02/10/2021 12:57 PM: (Against)

I write in opposition of this Resolution. This matter was first brought to the attention of the Council over a year ago, with almost no response. This resolution is proposed with very compromised language, and had no real discussion or public input. The only committee referral was "Quality of Life", passed out of committee on the consent calendar with no discussion. In the past, the City has passed resolutions "opposing" nuclear weapons and plutonium pit production. This resolution only asks for suspension of plutonium pit production while asking for a new Site-Wide Environmental Impact Statement (SWEIS) before expanding plutonium pit production. Why is the City asking for less?

A new SWEIS was denied and rejected by National Nuclear Security Administration (NNSA) and Department of Energy (DOE) in 2020 and to request another new SWEIS will take at least a year before a decision **might** be forthcoming. During this time, there will be no suspension of plutonium pit production, it is already in motion. Many of the concerns mentioned in this proposed resolution will continue to remain and increase in magnitude, such as toxic waste and much more.

Los Alamos National Laboratory (LANL) continues to endanger public health and safety, recruits our youth into nuclear weapons production programs, which has no benefit or value for NM, contaminate our environment, and plans expansion projects in communities outside Los Alamos for the nuclear weapons program, severely impacting the infrastructure of these communities. With these wide-spread impacts to outside communities, the City of the Santa Fe has the right and ability to ask LANL to provide the Site Plan and the Plutonium Pit Production Plan in order to more accurately determine the full-extent of the impact to Santa Fe.

The damage to worker and public health and safety and the environment from the last U.S. plutonium pit facility, Rocky Flats in Colorado, is still on-going. The process by which pits are produced has changed little, safety issues have not diminished, and environmental damage potential has not been reduced.

This resolution does not provide adequate protection for the City of Santa Fe, and the City Council has an obligation to its citizens to provide the highest and best protections possible. Please oppose this resolution and take much needed stronger action.

Lydia Clark
Santa Fe, NM




City of Santa Fe New Mexico


Memorandum



Date: January 29, 2021

To: Quality of Life Committee and Governing Body

Via: Erin K. McSherry, City Attorney 

From: Jesse Guillen, Legislative Liaison 

RE: LANL EIS Request

ITEM AND ISSUE:

Request to the National Nuclear Security Agency (“NNSA”) that it prepare and complete a new site-wide environmental impact statement (“SWEIS”) for Los Alamos National Laboratory (“LANL”) prior to expanding plutonium pit production at the facility.

BACKGROUND AND SUMMARY:

LANL last conducted a SWEIS in 2008 and the NNSA continues to rely on that study, rather than commission an updated study. A public comment provided by an employee of the U.S. Forest Service for the 1999 SWEIS resulted in LANL implementing fire prevention measures that arguably protected 40,000 barrels of plutonium-contaminated waste during the 2000 Cerro Grande Fire. NNSA’s plan to increase plutonium pit production at LANL to up to 30 pits per year, which will result in increased radioactive waste, is seen by LANL watchdog organizations as requiring an updated SWEIS. According to these watchdogs, continuing safety issues at LANL relating to how it handles nuclear waste also raise concerns about increasing plutonium pit production at the Lab.

ATTACHMENTS:

Resolution
Fiscal Impact Report
Exhibit A – Resolution No. 1994-49
Exhibit B – Resolution No. 2010-91
Exhibit C – Resolution No. 2003-64
Exhibit D – Resolution No. 2006-104
Exhibit E – Resolution No. 2008-17
Exhibit F – Resolution No. 2017-76

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2021-__**

3 **INTRODUCED BY:**

4
5 Councilor Renee Villarreal

6 Councilor Signe I. Lindell

7
8
9
10 **A RESOLUTION**

11 **REQUESTING THE NATIONAL NUCLEAR SECURITY ADMINISTRATION PREPARE**
12 **AND COMPLETE A NEW SITE-WIDE ENVIRONMENTAL IMPACT STATEMENT**
13 **FOR LOS ALAMOS NATIONAL LABORATORY BEFORE EXPANDING PLUTONIUM**
14 **PIT PRODUCTION AT THE FACILITY.**

15
16 **WHEREAS**, the City of Santa Fe has a longstanding tradition of promoting democracy
17 and environmental protection in pending nuclear weapons decisions by requesting that “all
18 applicable environmental laws be obeyed by the DOE, and appropriate (and legally mandated)
19 citizen participation be actively supported in the determination of the future mission and function
20 of LANL” (Resolution No. 1994-49, Exhibit A); and

21 **WHEREAS**, the City has previously joined with the County to support Los Alamos
22 National Laboratory (“LANL”) expansion Environmental Impact Statements, calling for “a new
23 complete EIS” to “reassure the citizens of Santa Fe that the safety and environmental issues entailed
24 in this growing project are being planned for in a careful and comprehensive way” (Resolution No.
25 2010-91, Exhibit B); and

1 **WHEREAS**, the Governing Body has also previously passed Resolution Nos. 2003-64
2 (Exhibit C), 2006-104 (Exhibit D), 2008-17 (Exhibit E), and 2017-76 (Exhibit F) opposing
3 expansion of plutonium pit production at LANL until all safety issues are resolved and calling for
4 comprehensive cleanup of legacy wastes; and

5 **WHEREAS**, Resolution No. 2017-76 specifically documented eight nuclear safety
6 incidences at LANL, including a 2017 National Nuclear Safety Administration (“NNSA”) report
7 to the independent Defense Nuclear Facilities Safety Board (“DNFSB”) that found that LANL was
8 the only nuclear weapons production suite that did not meet expectations in the functional area of
9 criticality safety expectations; and

10 **WHEREAS**, Resolution No. 2017-76 stated that the NNSA was still actively planning to
11 expand the production of plutonium pits for nuclear weapons at the LANL from 20 to 30 pits or
12 more per year, including a surge capacity of up to 80, nearly doubling related radioactive and toxic
13 wastes; and

14 **WHEREAS**, plutonium pits are used as the “triggers” for the nation’s nuclear weapons;
15 and

16 **WHEREAS**, plutonium is a substance with significant health and environmental risks; and

17 **WHEREAS**, independent experts have found that plutonium pits have reliable lifetimes of
18 a century or more, thus making expanded production to maintain the safety and reliability of the
19 existing nuclear weapons arsenal unnecessary; and

20 **WHEREAS**, the DNFSB has recently reported on the possibility of potentially lethal
21 radioactive doses as high as 760 rem¹ to workers at LANL’s plutonium pit production facility (“PF-
22 4”), with a possible public dose of 24 rem, because LANL “do[es] not appropriately analyze

¹ REM (“Roentgen equivalent man”) is used to measure the effective dose, which combines the amount of energy from any type of [ionizing radiation](#) that is deposited in human tissue with the medical effects of the given type of radiation. The federal Nuclear Regulatory Commission regards 400-450 rem received over a short period of time as a lethal dose. By way of comparison a chest x-ray is around 10 millirem (millirem = 1/1000th rem).

1 energetic chemical reaction hazards involving transuranic waste”² such as the improperly prepared
2 radioactive waste drum from LANL that in 2014 ruptured and closed the Waste Isolation Pilot Plant
3 for nearly three years; and

4 **WHEREAS**, DNFSB’s calculations of potential doses to workers (760 rem) and the public
5 (53 rem) are orders of magnitude above the potential risks that the analysis published by NNSA in
6 its August 2020 Supplemental Analysis of the 2008 SWEIS related to expanded plutonium pit
7 production; and

8 **WHEREAS**, the independent Government Accountability Office (“GAO”) has recently
9 reported that “In the last 2 decades, LANL has twice had to suspend laboratory-wide operations
10 after the discovery of significant safety issues” and “A 2018 LANL study found that LANL is
11 ‘marginally capable’ of meeting NNSA’s plan to ramp up pit production to 30 pits per year by
12 2026”;³ and

13 **WHEREAS**, federal agencies are required by the National Environmental Policy Act
14 (“NEPA”) to allow the public the opportunity to analyze and comment on major federal proposals
15 such as expanded plutonium pit production that “significantly affect[ing] the quality of the human
16 environment”⁴; and

17 **WHEREAS**, the NNSA has refused to begin a new Site-Wide Environmental Impact
18 Statement (“SWEIS”) for LANL, instead relying on an outdated 2008 SWEIS; and

19 **WHEREAS**, NEPA requires new analysis when “[t]he agency makes substantial changes
20 in the proposed action that are relevant to environmental concerns; or [t]here are significant new
21 circumstances or information relevant to environmental concerns and bearing on the proposed

² *Potential Energetic Chemical Reaction Events Involving Transuranic Waste At Los Alamos National Laboratory*, DNFSB, September 2020, <https://www.dnfsb.gov/documents/reports/technical-reports/potential-energetic-chemical-reaction-events-involving>

³ *NNSA Should Further Develop Cost, Schedule, and Risk Information for the W87-1 Warhead Program*, GAO, September 2020, <https://www.gao.gov/assets/710/709253.pdf>

⁴ 42 U.S.C. § 4332(c)

1 action or its impacts,”⁵ such as, in this case, another major wildfire, up to \$13 billion in new
2 construction at LANL, the discovery of serious groundwater contamination, planned massive
3 releases of radioactive tritium, etc.; and

4 **WHEREAS**, past SWEISs have benefitted both the public and LANL, one dramatic
5 example being that public comment for a 1999 SWEIS prompted LANL to undertake fire
6 prevention measures that arguably prevented the 2000 Cerro Grande Fire from reaching some
7 40,000 barrels of plutonium-contaminated wastes stored aboveground at Area G, a potential
8 catastrophe that LANL acknowledged was averted by public comment required by NEPA⁶; and

9 **WHEREAS**, a SWEIS process that considers all reasonable alternatives to NNSA’s
10 proposed actions and incorporates mitigation plans is the only legally mandated process by which
11 the public, tribes, and local and state governments can understand the nature and consequences of
12 NNSA’s proposed actions.

13 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
14 **CITY OF SANTA FE** that the Governing Body hereby requests that, in accordance with the
15 requirements of the National Environmental Policy Act, the National Nuclear Security
16 Administration immediately begin and complete a new Site-Wide Environmental Impact Statement
17 for Continued Operations at the Los Alamos National Laboratory.

18 **BE IT FURTHER RESOLVED** that the Governing Body requests that the National
19 Nuclear Security Administration suspend any planned expanded plutonium pit production until all
20 nuclear safety issues are resolved, as certified by the independent Defense Nuclear Facilities Safety
21 Board.

22 **BE IT FURTHER RESOLVED** that the Governing Body directs the City Clerk to send

⁵ 40 C.F.R. § 1502.9(c)(1) and 10 C.F.R. § 1021.314

⁶ “When the Cerro Grande Fire swept down from the mountains this spring, these extra defensive steps, taken in response to the public comments, paid for themselves many times over. The savings were in the form of the harm to facilities that was reduced or avoided, and reduced risk to the public that might have resulted.”
<https://hwbdocuments.env.nm.gov/Los%20Alamos%20National%20Labs/General/13435.pdf>

1 copies of this resolution to the New Mexico Congressional delegation, the Governor of New
2 Mexico, the President Pro Tempore of the New Mexico Senate, the Speaker of the New Mexico
3 House of Representatives, the Secretary of the Department of Energy, the Secretary of the New
4 Mexico Environment Department, the Administrator of the National Nuclear Security
5 Administration, the Manager of the NNSA Los Alamos Field Office, and the Director of the Los
6 Alamos National Laboratory.

7 PASSED, APPROVED, and ADOPTED this ___ day of _____, 2021.

8
9
10 _____
11 ALAN WEBBER, MAYOR

12 ATTEST:

13
14 _____
15 KRISTINE MIHELICIC, CITY CLERK

16 APPROVED AS TO FORM:

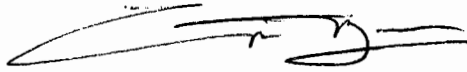
17 
18 _____
19 ERIN K. MCSHERRY, CITY ATTORNEY

20
21
22
23
24
25 *Legislation/Resolution/2021/LANL EIS Request*

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 1994-49

INTRODUCED BY:



A RESOLUTION

**SUPPORTING AN ENVIRONMENTAL IMPACT STUDY AND ANALYSIS OF
ALTERNATIVES AT LOS ALAMOS NATIONAL LABORATORY**

WHEREAS, Los Alamos National Laboratory (LANL) is currently undergoing a change in its overall mission within the United States Nuclear Weapons Complex, brought on by the ending of the Cold War; and

WHEREAS, LANL'S traditional roles of weapons research, development and testing are presently being reexamined by Congress, by the Department of Energy (DOE) and by the Department of Defense (DOD); and

WHEREAS, new roles are being considered for LANL, such as the production and replacement of nuclear warheads for the arsenal; and

WHEREAS, there is a need to consider environmental impacts, and allow for a process of public comment, before decisions are made about new major projects at LANL; and

WHEREAS, the City of Santa Fe believes that it is appropriate to protect the

1 well-being of its citizens and community; and

2 WHEREAS, the citizens of northern New Mexico deserve no less than full
3 consideration under the law of LANL's future and potential impact on our
4 community.

5 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY
6 OF THE CITY OF SANTA FE that:

7 1. The City of Santa Fe supports a transition of LANL in the post-Cold
8 War era toward research and development that emphasizes peacetime, civilian and
9 industrial applications; work that will benefit our national security in the areas of
10 energy use, non-proliferation of nuclear and other weapons of mass destruction, and
11 waste management.

12 2. The City of Santa Fe requests that all applicable environmental laws
13 be obeyed by the DOE, and appropriate (and legally mandated) citizen participation
14 be actively supported in the determination of the future mission and function of
15 LANL.

16 3. The City of Santa Fe requests that a site-wide Environmental Impact
17 Study and National Environmental Policy Act (NEPA) analysis be completed of
18 LANL's future, prior to any Congressional or DOE actions which could prejudice the
19 outcome of public and local government participation, and prior to any new major
20 construction activities, including waste disposal facilities at LANL as requested in the
21 letter to the DOE Secretary Hazel O'Leary, dated April 28, 1994, signed by the Eight
22 Northern Pueblos Council, community, labor, religious and environmental
23 organizations representing over 20,000 citizens of the State of New Mexico.

24 BE IT FURTHER RESOLVED that it is the intent of the governing body of

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the City of Santa Fe to state its strong belief in examining what future the people of northern New Mexico envision for themselves and their children.

PASSED, APPROVED and ADOPTED this 13 day of July, 1994.

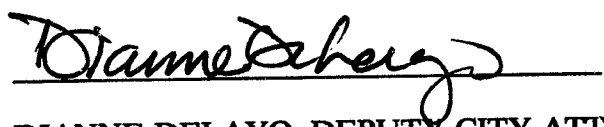

DEBBIE JARAMILLO, MAYOR

ATTEST:



FRANCES ROMERO GRIFFIN, CITY CLERK

APPROVED AS TO FORM:



DIANNE DELAYO, DEPUTY CITY ATTORNEY

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2003-64

INTRODUCED BY:

Miguel Chavez
John Ortega
Cathy J. Binshee
Rebe Weff
David Lars

A RESOLUTION

**OBJECTING TO THE LOCATION OF A MODERN PIT FACILITY IN NORTHERN
NEW MEXICO AND DIRECTING THE CITY CLERK TO INFORM FEDERAL
AUTHORITIES OF THE OBJECTIONS.**

WHEREAS, the United States department of energy has announced support for a plan to
build a modern pit facility to produce plutonium pits in New Mexico; and

WHEREAS, plutonium pits are used to trigger nuclear weapons; and

WHEREAS, the use of plutonium creates health and environmental hazards; and

WHEREAS, the governing body of the city of Santa Fe does not support the creation of
further health and environmental hazards related to nuclear weapons for the citizens of northern
New Mexico; and

WHEREAS, the United States house energy and water appropriations committee has
recently found the construction of the modern pit facility to be "premature"; and

WHEREAS, it is the declared policy of the United States government to help constrain
the global proliferation of weapons of mass destruction.

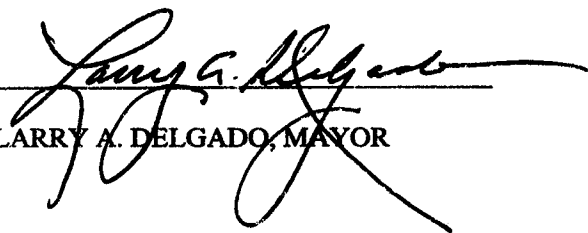
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NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the governing body hereby states its objection to the department of energy regarding the location of a new and or expanded modern pit facility in northern New Mexico; and


BE IT FURTHER RESOLVED that given the lack of discovered aging effects impacting plutonium pit safety and reliability, the lack of need for high production rates given the recently ratified treaty with Russia requiring massive future arms reductions, and the need for the United States to show global leadership by example in constraining the production and spread of weapons of mass destruction, the governing body objects to the construction and operation of the modern pit facility anywhere; and

BE IT FURTHER RESOLVED that the governing body directs the city clerk to send copies of this resolution to our congressional delegation, our governor, the department of energy, and the national nuclear security administration.

PASSED. APPROVED, and ADOPTED this 13th day of August, 2003.


LARRY A. DELGADO, MAYOR

ATTEST:


YOLANDA Y. VIGIL, CITY CLERK

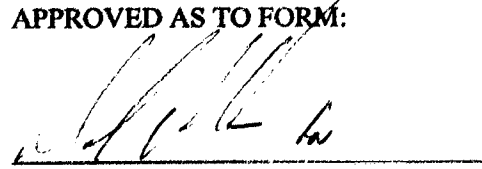
APPROVED AS TO FORM:

BRUCE THOMPSON, CITY ATTORNEY

Exhibit B

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2010 -**

3 **COUNTY OF SANTA FE, NEW MEXICO**

4 **RESOLUTION NO. 2010 -**

5 **INTRODUCED BY:**

6 **Councilor Bushee**

7 **Commissioner Kathy Holian**

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10 **A JOINT RESOLUTION**

11 **IN SUPPORT OF A NEW ENVIRONMENTAL IMPACT STATEMENT FOR LANL'S**
12 **CHEMISTRY AND METALLURGY RESEARCH REPLACEMENT NUCLEAR**
13 **FACILITY (CMRR PROJECT).**

14
15 **WHEREAS**, the Department of Energy (DOE) and the National Nuclear Security
16 Administration (NNSA) are planning to build a Chemistry and Metallurgy Research Replacement
17 Nuclear Facility (abbreviated as CMRR) to facilitate large-scale production of additional
18 plutonium warhead cores (or "pits") at Los Alamos National Laboratory (LANL); and

19 **WHEREAS**, the CMRR project involves significant environmental and safety risks to
20 surrounding communities and their residents including the City and County of Santa Fe; and

21 **WHEREAS**, the CMRR project has grown significantly in scope since 2003, when it
22 was presented as a smaller, above-ground facility; and

23 **WHEREAS**, the Governing Body of the City of Santa Fe objected to the facility in 2003,
24 adopting Resolution No. 2003-64 "A Resolution Objecting To The Location Of A Modern Pit
25 Facility In Northern New Mexico And Directing The City Clerk To Inform Federal Authorities

1 Of The Objections”; and

2 **WHEREAS**, an Environmental Impact Statement (EIS) was conducted by NNSA in
3 2003 for a much smaller CMRR project; and

4 **WHEREAS**, the newest underground incarnation of the proposed CMRR project has
5 grown in magnitude from an estimated \$400 million to over \$5 billion, to be completed a decade
6 hence; and

7 **WHEREAS**, a new EIS for the enlarged CMRR project is essential to reassure the
8 citizens of Santa Fe that the safety and environmental issues entailed in this growing project are
9 being planned for in a careful and comprehensive way; and

10 **WHEREAS**, local governments at city, county, and state levels need to be fully informed
11 about the CMRR project at LANL, so as to make their citizens aware of potential safety and
12 environmental hazards associated with the handling of plutonium and other dangerous materials
13 in a timely fashion.

14 **NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**
15 **CITY OF SANTA FE AND THE BOARD OF COUNTY COMMISSIONERS OF SANTA**
16 **FE COUNTY** that that the DOE, NNSA, and LANL are urged to conduct a new, full-fledged
17 Environmental Impact Statement for the CMRR project, as it is presently envisioned.

18 **AND BE IT FURTHER RESOLVED** that the Governing Body of the City of Santa Fe
19 and the Board of County Commissioners of Santa Fe County respectfully request the DOE,
20 NNSA, and LANL to keep the City and County of Santa Fe fully informed, in a timely manner,
21 about progress on the EIS and about any other safety and environmental concerns that arise
22 during any preliminary phase of construction that is done at the CMRR site.

23 **AND BE IT FURTHER RESOLVED** that that the City and County Clerks are directed
24 to forward a copy of this resolution to the DOE, NNSA, and LANL.

25

1 PASSED, APPROVED, and ADOPTED this ____ day of _____, 2010.

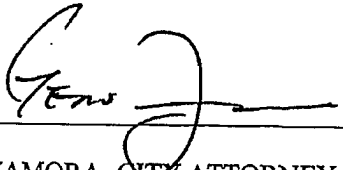
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DAVID COSS, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



GENO ZAMORA, CITY ATTORNEY

PASSED, APPROVED and ADOPTED this ____ day of _____, 2010,
by the Santa Fe Board of County Commissioners.

THE BOARD OF COUNTY
COMMISSIONERS OF SANTA FE COUNTY

By: _____
HARRY B. MONTOYA

ATTEST:

VALERIE ESPINOZA, COUNTY CLERK

1 APPROVED AS TO FORM:

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STEPHEN C. ROSS, COUNTY ATTORNEY

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25 Jp/ca/jpmb/2010 res/LANL nuclear facility CMRR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2006-104

INTRODUCED BY:

Phillip Wesley, David Cass, Miguel Chavez C. Dominguez, and other illegible signatures.

A RESOLUTION

OBJECTING TO PROPOSED EXPANDED NUCLEAR WEAPONS ACTIVITIES, INCLUDING PLUTONIUM PIT PRODUCTION, AT THE LOS ALAMOS NATIONAL LABORATORY AND DIRECTING THE CITY CLERK TO INFORM FEDERAL AUTHORITIES OF THE OBJECTIONS.

WHEREAS, the National Nuclear Security Administration (NNSA), the semi-autonomous nuclear weapons agency within the Department of Energy, has announced its plans to expand nuclear weapons activities at the Los Alamos National Laboratory; and

WHEREAS, these expanded activities are in addition to nuclear weapons activities previously expanded in 1999; and

WHEREAS, these expanded activities include the planned quadrupling of plutonium pit production from 20 to 80 per year, with the near doubling of related radioactive wastes; and

WHEREAS, plutonium pits are used to trigger existing nuclear weapons and will be used in future new-design nuclear weapons; and

WHEREAS, the use of plutonium creates health and environmental hazards; and

1 **WHEREAS**, the governing body of the City of Santa Fe does not support the creation of
2 further health and environmental hazards related to nuclear weapons for the citizens of northern
3 New Mexico; and

4 **WHEREAS**, NNSA took 18 months from its formal “Notice of Intent” to final release of
5 its plans through a draft “Site-Wide Environmental Impact Statement for Continued Operations
6 at Los Alamos National Laboratory”, but granted the public only 60 days to comment on 1,700
7 technical pages and hundreds of referenced documents; and

8 **WHEREAS**, it is the declared policy of the city, through previously adopted resolutions,
9 for Cities for Peace, Mayor’s Peace Initiative to promote nuclear disarmament; and

10 **WHEREAS**, the governing body has previously passed Resolution No. 2003-64 which
11 opposed expansion of “pit” facilities construction at Los Alamos National Laboratory; and

12 **WHEREAS**, the governing body has also previously passed Resolution No. 2005-39
13 supporting compliance by the United States with the treaty on nonproliferation of nuclear
14 weapons; and

15 **WHEREAS**, it is the declared policy of United States government to help constrain the
16 proliferation of weapons of mass destruction, but should lead by concrete example.

17 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
18 **CITY OF SANTA FE** that the governing body hereby states its objection to the expansion of
19 nuclear weapons activities at the Los Alamos National Laboratory, including increased
20 plutonium pit production; and

21 **BE IT FURTHER RESOLVED** that the governing body objects to the insufficient 60-
22 day public comment period, and strongly advises NNSA to grant a 30-day extension; and

23 **BE IT FURTHER RESOLVED** that the governing body directs the City Clerk to send
24 copies of this resolution to our congressional delegation, our governor, the Department of Energy
25 and the National Nuclear Security Administration.

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PASSED, APPROVED and ADOPTED this 28th day of August, 2006.

David Coss

DAVID COSS, MAYOR

ATTEST:

Yolanda Y. Vigil
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

Frank D. Katz
FRANK D. KATZ, CITY ATTORNEY

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2017-76

INTRODUCED BY:

Councilor Renee D. Villarreal

Councilor Joseph M. Maestas

Councilor Carmichael A. Dominguez

Councilor Mike Harris

Councilor Signe I. Lindell

A RESOLUTION

REQUESTING THAT THE NEW MEXICO ENVIRONMENT DEPARTMENT STRENGTHEN THE REVISED LOS ALAMOS NATIONAL LABS CLEANUP ORDER TO CALL FOR ADDITIONAL CHARACTERIZATION OF LEGACY NUCLEAR WASTES, INCREASED CLEANUP FUNDING, AND SIGNIFICANT ADDITIONAL SAFETY TRAINING; AND SUSPEND ANY PLANNED EXPANDED PLUTONIUM PIT PRODUCTION UNTIL SAFETY ISSUES ARE RESOLVED; AND DIRECTING THE CITY CLERK TO TRANSMIT COPIES OF THIS RESOLUTION TO ASSOCIATED PARTIES.

WHEREAS, in June 2016, DOE and NMED signed a new revised Consent Order governing cleanup that incorporates giant loopholes whereby LANL can avoid comprehensive cleanup by simply claiming that it is too difficult or costly; and

WHEREAS, the new Consent Order bases LANL cleanup on projections of future funding availability instead of what is actually needed to accomplish comprehensive cleanup; and

WHEREAS, in August 2016, based on the new Consent Order, DOE released an estimated cleanup baseline that extended the timeframe for the completion of cleanup at LANL to 2040,

1 asserting that only 5,000 cubic meters of waste needs to be cleaned up, while an estimated 30 times
2 that much legacy waste is anticipated to be subject to “cap and cover”, i.e., leaving said waste buried
3 where it is currently located on LANL property; and

4 **WHEREAS**, the Department of Energy (DOE) is expanding the production of new
5 plutonium pit triggers at LANL for the nation’s nuclear weapons from 20 to up to 80 pits per year,
6 which is estimated to nearly double related radioactive and toxic wastes; and

7 **WHEREAS**, plutonium pits are used as the “triggers” for the nation’s nuclear weapons; and

8 **WHEREAS**, plutonium is a substance with significant health and environmental risks; and

9 **WHEREAS**, independent experts outside of the Department of Defense have found that all
10 plutonium pits, including those created when the existing nuclear stockpile was created over the last
11 60 years, have reliable lifetimes of a century or more, arguing that expanded production of plutonium
12 pits is unnecessary; and

13 **WHEREAS**, the Department of Energy has determined that “Required improvements to the
14 [Nuclear] Criticality Safety Program are moving at an unacceptably slow rate... [and] The number
15 and latency of infractions in the plutonium facility is of concern”, for which LANL received the only
16 “red grade” in nuclear criticality safety in the DOE nuclear weapons complex in the 2016 report of
17 the Department of Energy to the Defense Nuclear Safety Facilities Board (DNSFB); and

18 **WHEREAS**, the nuclear weapons complex at Los Alamos National Laboratory has suffered
19 several accidents in recent years, documented in a multi-part series from the Center for Public
20 Integrity; and

21 **WHEREAS**, these events include:

22 1. In March 2011, in violation of nuclear material handing protocols, a manager placed
23 an amount of nuclear material in a glovebox¹ that exceeded the criticality limit of the box; and

¹ A “glovebox” is a specially constructed contained what permits the safe handling of hazardous and toxic materials, including radioactive materials, utilizing gloves that employees slip their hands into, allowing them to touch and manipulate those materials.

1 2. In August 2011, technicians, seeking a photo-op, in violation of nuclear material
2 handling protocols, placed eight rods of plutonium in close proximity to each other – several more
3 rods would have triggered a deadly nuclear chain reaction;

4 3. A 2013 LANL study found that glovebox leaks in PF-4 occurred roughly three times
5 a month, often the result of avoidable errors;

6 4. In December 2013, LANL sent a drum containing radioactive material to the WIPP
7 storage facility near Carlsbad that ruptured inside the facility – a result of improper mixing of
8 ingredients – costing the government \$1.5 billion to clean up.

9 5. In May 2016, a trolley used to carry nuclear materials in a facility at LANL fell from
10 the ceiling and crashed into a glovebox, which was fortunately empty and not in use;

11 6. The DOE annual report to the DNSFB, released in February 2017, found that LANL
12 was the only nuclear production site whose performance did not meet expectations in the functional
13 area of criticality safety expectations;;

14 7. In July 2017, a LANL employee sent “special nuclear material” across the country by
15 air in direct violation of nuclear safety standards; and

16 8. In August 2017, two further incidents of mishandling of plutonium metals occurred,
17 one of which was acknowledged as a ‘criticality safety event’; and

18 **WHEREAS**, DOE should increase and allocate sufficient funding to ensure all contractor
19 staff working with radioactive and hazardous material are trained in the handling of said material,
20 overseen by more federal nuclear safety experts, in order to ensure the safety of the employees, the
21 nuclear stockpile and the surrounding communities, including the city of Santa Fe; and

22 **WHEREAS**, DOE should ensure that DOE staffing targets are fully met on a priority basis,
23 as the February 2017 report of DOE to the DNSFB noted that targeted staffing levels had not been
24 met; and

25 **WHEREAS**, radioactive and hazardous contaminants produced as a result of nuclear

1 weapons research and production at LANL have been and may continue to be released into the Rio
2 Grande and the Española Basin Aquifer, designated by the Environmental Protection Agency as a
3 Sole Source Aquifer²; and

4 **WHEREAS**, LANL’s legacy radioactive and toxic wastes are located as close as eighteen
5 miles from the Santa Fe Plaza and five miles from the City’s Buckman Well Field; and

6 **WHEREAS**, LANL’s radioactive and toxic wastes are buried in unlined pits and shafts,
7 unlike the composite liners and leachate collection systems that the New Mexico Environment
8 Department (NMED) requires of all local governments; and

9 **WHEREAS**, the Governing Body of the City of Santa Fe supports the total and permanent
10 cleanup of all toxic and radioactive health and environmental hazards related to nuclear weapons
11 research and production at Los Alamos; and

12 **WHEREAS**, sustainable futures for the Cities of Santa Fe, Española and Los Alamos, six
13 Pueblo nations and the broader region depend on preventing groundwater contamination of the
14 Española Basin Aquifer; and

15 **WHEREAS**, at the October 5, 2017 meeting of the Buckman Direct Diversion Board
16 (BDDB), a motion was unanimously approved that authorized the Board Chair to sign the proposed
17 Memorandum Of Understanding Between The U.S. Department Of Energy And The Buckman Direct
18 Diversion Board Regarding Notification And Water Quality Monitoring after review and agreement
19 on six proposed edits; and

20 **WHEREAS**, at the October 5, 2017 meeting of the BDDB, a representative from the Los
21 Alamos DOE office committed that status updates would be provided to BDDB as requested
22 regarding the overall cleanup program, including the plume demonstrated to have hexavalent
23 chromium concentration above regulatory levels; and

24 **WHEREAS**, the Governing Body has previously passed Resolution Nos. 2003-64, 2006-104,

² A Sole Source Aquifer is defined by the EPA as an aquifer that supplies at least 50% of the drinking water for its service area and where there are no reasonably available alternative drinking water sources should the aquifer become contaminated

1 2008-17 and 2013-111 opposing expansion of plutonium pit production at LANL and “cap and
2 cover” of legacy wastes as a substitute for full cleanup; and

3 **WHEREAS**, full cleanup of LANL would be a win-win for New Mexicans, permanently
4 protecting our precious groundwater resources and the Rio Grande while creating hundreds of high
5 paying jobs for twenty years or more if the wastes were fully removed.

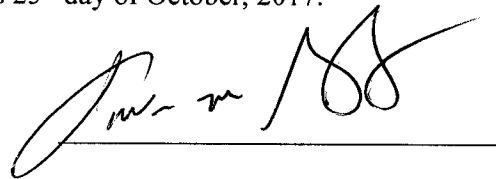
6 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
7 **CITY OF SANTA FE** that the Governing Body hereby requests that the New Mexico Environment
8 Department strengthen the revised cleanup Consent Order to call for additional characterization of
9 legacy nuclear wastes, increased cleanup funding, and significant additional safety training, thereby
10 incentivizing DOE to seek increased funding for these tasks.

11 **BE IT FURTHER RESOLVED** that the Governing Body requests that the United States
12 Department of Energy suspend any planned expanded plutonium pit production until all nuclear
13 criticality safety issues are resolved, as certified by the Defense Nuclear Facilities Safety Board.

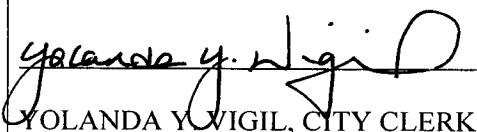
14 **BE IT FURTHER RESOLVED** that the Governing Body directs the City Clerk to send
15 copies of this resolution to the New Mexican congressional delegation, the Governor of New Mexico,
16 the President Pro Tempore of the New Mexico Senate, the Speaker of the New Mexico House of
17 Representatives, and the Secretaries of the United States Department of Energy and the New Mexico
18 Environment Department.

19 PASSED, APPROVED and ADOPTED this 25th day of October, 2017.


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22 ATTEST:



JAVIER GONZALES, MAYOR

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25 YOLANDA Y. VIGIL, CITY CLERK

1 APPROVED AS TO FORM:

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4 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Legislation/Resolutions 2017/2017-76 LANL Cleanup*

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2008-17

INTRODUCED BY:

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A RESOLUTION

11 **OBJECTING TO PROPOSED NUCLEAR WEAPONS COMPLEX “TRANSFORMATON”**
 12 **ACTIVITIES AT THE LOS ALAMOS NATIONAL LABORATORY, INCLUDING**
 13 **EXPANDED PLUTONIUM PIT PRODUCTION; AND DIRECTING THE CITY CLERK**
 14 **TO INFORM FEDERAL AUTHORITIES OF THE OBJECTIONS.**

15
 16 **WHEREAS**, the National Nuclear Security Administration (NNSA), the Department of
 17 Energy’s semi-autonomous nuclear weapons agency, has released a draft *Complex*
 18 *Transformation Supplement Programmatic Environmental Impact Statement* in order to
 19 implement its plans to transform its nuclear weapons complex, including the Los Alamos
 20 National Laboratory (LANL); and

21 **WHEREAS**, planned “transformation” of the nuclear weapons complex will expand
 22 nuclear weapons activities across the nation, most particularly at LANL; and

23 **WHEREAS**, nuclear weapons activities at Los Alamos were previously expanded in
 24 1999, but now LANL has been designated the nation’s permanent production center for up to 80
 25 plutonium pits per year, with related increases in hazardous and radioactive wastes; and

1 **WHEREAS**, plutonium pits are used as the “triggers” for weapons of mass destruction
2 and plutonium creates health and environmental hazards; and

3 **WHEREAS**, the governing body of the City of Santa Fe does not support the creation of
4 further health and environmental hazards related to nuclear weapons for the citizens of Northern
5 New Mexico; and

6 **WHEREAS**, LANL has released radioactive and hazardous contaminants into the
7 Espanola Basin Aquifer, designate by EPA as a Sole Source Aquifer, and groundwater
8 monitoring wells at LANL are not reliable because of drilling methods known to mask
9 contaminants; and

10 **WHEREAS**, it is declared the policy of the City, through previously adopted resolutions,
11 to promote nuclear disarmament through the Mayor’s Peace Initiative for Cities for Peace; and

12 **WHEREAS**, the governing body has previously passed Resolution No. 2003-64 and
13 2006-104 opposing expansion of “pit” facilities construction at LANL; and

14 **WHEREAS**, the governing boy has also previously passed Resolution No. 2005-39
15 supporting compliance by the United States with the treaty on nonproliferation of nuclear
16 weapons; and

17 **WHEREAS**, independent experts have found that plutonium pits have reliable lifetimes
18 of a century or more, thus making production unnecessary to begin with; and

19 **WHEREAS**, NNSA claims that it must transform its nuclear weapons complex to meet
20 the requirements of President Bush’s 2001 “Nuclear Posture Review,” but Congress has required
21 the incoming president to complete a new Review in 2009; and

22 **WHEREAS**, the new Nuclear Posture Review by a new president could have impacts on
23 the nuclear weapons complex and LANL significantly different from the old Review.

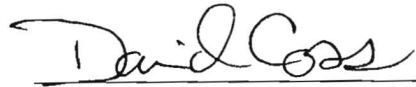
24 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
25 **CITY OF SANTA FE** that the governing body hereby states its objection to NNSA’s *Complex*

1 Transformation Supplemental Programmatic Environmental Impact Statement and resolves that it
2 be withdrawn until after the 2009 Nuclear Posture Review.

3 **BE IT FURTHER RESOLVED** that the governing body hereby states its objection to
4 the expansion of nuclear weapons activities at the Los Alamos National Laboratory, including
5 further increased plutonium pit production.

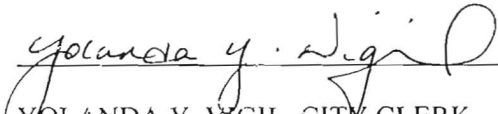
6 **BE IT FURTHER RESOLVED** that the governing body directs the City Clerk to send
7 copies of this resolution to our congressional delegation, our governor, the Department of Energy
8 and the National Nuclear Security Administration.

9 PASSED, APPROVED and ADOPTED this 13th day of February, 2008.

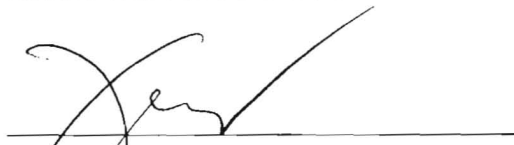
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12 DAVID COSS, MAYOR

13 ATTEST:

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16 YOLANDA Y. VIGIL, CITY CLERK

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18 APPROVED AS TO FORM:

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21 FRANK D. KATZ, CITY ATTORNEY

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25 *mdb/N/Resolutions 2008/Plutonium*

FISCAL IMPACT REPORT

General Information:

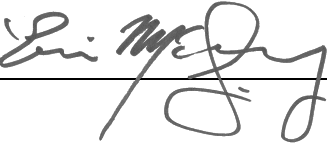
(Check) Bill: _____ Resolution: X

Short Title(s): LANL EIS Request

Sponsor(s): Councilor Villarreal and Lindell

Reviewing Department(s): Legislative Services

Staff Completing FIR: Jesse Guillen Date: 1/6/21 Phone: 955-6518

Reviewed by City Attorney:  Date: Jan 29, 2021

Reviewed by Finance Director: _____ Date: _____

Summary:

The Resolution calls on the NNSA to begin and complete an updated Site-Wide Environmental Impact Study and requests the NNSA suspend expanded plutonium pit production until nuclear safety issues at LANL are resolved.

Departments Affected:

None.

Consequences of Not Enacting Legislation:

The Governing Body will not express its support for a new site-wide Environmental Impact Study.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

None identified.

Performance and Administrative Implications:

The City will send a copy of this Resolution to various associated parties.

Fiscal Implications:

None identified.

Fiscal Impact

X Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
<u>Personnel and</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Benefits*</u>							
<u>Capital Outlay</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Contractual/</u>	\$ _____	\$ _____	\$ _____		_____	_____	
<u>Professional Services</u>							
<u>Operating</u>	\$ _____	\$ _____	\$ _____		_____	_____	\$ _____
<u>Total:</u>	\$ _____	\$ _____	\$ _____				\$ _____

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

Revenue

Revenue Type	FYE __	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

Revenue Narrative:

ACTION SHEET
PUBLIC WORKS AND UTILITES COMMITTEE MEETING OF 02/08/2021

ISSUE NO. 8L

Consideration of Resolution No. 2021-__ : A Resolution Requiring Governing Body Approval Prior to Announcing the Availability of Any City-Owned Land, Buildings, or Other Real Property for Sale. (Councilor Vigil Coppler, Councilor Garcia, Councilor Villarreal, and Councilor Cassutt-Sanchez) (Andrea Salazar, Assistant City Attorney: asalazar@santafenm.gov, 955-6303; Rich Brown, Economic and Community Development Director: rdbrown@santafenm.gov, 955-6625)

Committee Review:

Public Works and Utilities Committee: 2/8/21
 Governing Body: 2/10/21

PUBLIC WORKS AND UTILITES COMMITTEE ACTION: Approved on Consent Agenda to forward to 2/10/21 Governing Body.

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE:	FOR	AGAINST	ABSTAIN
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR GARCIA	X		
COUNCILOR ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR VIGIL COPPLER	X		



City of Santa Fe New Mexico

Memorandum



Date: February 5, 2021

To: Public Works and Utilities Committee

From: Rich Brown, Director, Community and Economic Development Department *RB*

RE: Resolution requiring Governing Body approval prior to announcing City real property for sale.

ITEM AND ISSUE:

This Resolution will require staff to make a presentation to the Governing Body and have the Governing Body vote before announcing City real property for sale. This resolution does not set a minimum threshold to trigger a public presentation prior to announcing a piece of City real property for sale, but requires that staff present their reasoning for selling property in public before announcing City real estate is for sale. The FIR explores what this means for staff time to start making public presentation during the discussion portion of the agenda. This Resolution does not prohibit executive session, which would be helpful should issues of sales/marketing strategy, personal confidentiality, ongoing personal litigations, etc., which need to be frankly discussed before a public offering notice is made.

Note: Current practice is that all land and property assets subject to public offering for sale are discussed with the Governing Body during an executive session, then a public notice is placed both on the website and as ads within the newspaper. Then, to sell a piece of real property a resolution and purchase agreement are brought to the Governing Body for a public hearing as required by statute, and any sales over \$25,000 are subject to a referendum period. This new process would require two public presentations for a sale of real property, one to obtain permission to place the real property for sale and one for the sale process that is required by statute.

BACKGROUND AND SUMMARY:

Historically, Asset Development (now part of the Community and Economic Development) has monitored and assessed all land and parcel assets of the City. This includes the monitoring and managing of most, if not all, City-leased property assets.

Recently, Councilors on the Governing Body expressed dismay that disposition strategies for land parcels which are targeted for public offering for sale were discussed in a closed, Executive Session. The reason that staff have sought to discuss issues and potential strategies and approaches during executive session to this point is to allow candid discussion of potential legal issues and avoid losing potential leveraging of sales values through sales strategy, while also gaining feedback from the Governing Body on the recommended path to public offering.

Approval from the Governing Body is not currently required before the City announces the opportunity for potential offerors to submit offers to buy City property for the Governing Body's consideration.

ACTION REQUESTED:

Staff recommends moving forward with this Resolution, since it retains the option to discuss sensitive issues in Executive Session. The ongoing ability to hold an Executive Session, if needed, will allow the City to avoid telegraphing any competitive advantages or potentially ongoing litigating issues before launching an approved public offering.

ATTACHMENTS:

Resolution
Fiscal Impact Report

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2021-__**

3 **INTRODUCED BY:**

4
5 Councilor JoAnne Vigil Coppler

6 Councilor Michael J. Garcia

7 Councilor Renee Villarreal

8
9
10 **A RESOLUTION**

11 **REQUIRING GOVERNING BODY APPROVAL PRIOR TO ANNOUNCING THE**
12 **AVAILABILITY OF ANY CITY-OWNED LAND, BUILDINGS, OR OTHER REAL**
13 **PROPERTY FOR SALE.**

14
15 **WHEREAS**, the City recently unveiled a new website that advertises various properties
16 owned by the City of Santa Fe that are either “for sale” or contemplated for future sale; and

17 **WHEREAS**, Governing Body approval and, in most circumstances, a waiting period
18 during which the sale is subject to a voter referendum, is required for an offeror to purchase City
19 property; and

20 **WHEREAS**, approval from the Governing Body is not currently required before the City
21 announces the opportunity for potential offerors to submit offers to buy City property for the
22 Governing Body’s consideration; and

23 **WHEREAS**, there is currently one property listed as “for sale” on the new website: the
24 seven parcel, 228 acre Santa Fe Estates located north of Veterans Memorial Highway (US 599) and
25 to the West of US 285; and

1 **WHEREAS**, several other City-owned land and real property may soon be listed as “for
2 sale” on the website; and

3 **WHEREAS**, City-owned land, buildings, and other real property are public property; and

4 **WHEREAS**, the Governing Body prefers to hold discussions of the disposition or sale of
5 City-owned land or property transparently and in front of the public, during a public meeting unless
6 doing so would harm the City’s ability to leverage the competitive value of real property;
7 confidential market strategy is not a factor; there are no reputational interests at stake; relevant laws
8 do not require confidentiality; and there is no actual or threatened litigation to consider.

9 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
10 **CITY OF SANTA FE** that, prior to announcing any City-owned land, building, or other real
11 property as “for sale”, the Governing Body must approve a recommendation to do so, after a
12 presentation by City staff during a public meeting, describing why staff members recommend that
13 the City announce the land or other real property as “for sale.”

14 **BE IT FURTHER RESOLVED** that, other than Santa Fe Estates, all properties currently
15 under consideration for sale must be presented to the Governing Body for approval of a desired
16 announcement, prior to announcing the land, building, or other real property is for sale, even if the
17 Governing Body has already discussed such sale of such property in an executive session.

18 PASSED, APPROVED, and ADOPTED this ____day of _____, 2021.

19
20
21
22 ATTEST:

ALAN WEBBER, MAYOR

23
24 _____
25 KRISTINE MIHELIC, CITY CLERK

1 APPROVED AS TO FORM:

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4 ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/2021/Resolutions/GB Approval for Offering of Public Land for Sale*

FISCAL IMPACT REPORT**General Information:**(Check) Bill: _____ Resolution: X Short Title(s): GB Approval for Sale of Public LandSponsor(s): Councilors Vigil Coppler, Garcia, and VillarrealReviewing Department(s): Community and Economic DevelopmentStaff Completing FIR: Rich Brown Date: 1/29/21 Phone: 955-6625Reviewed by City Attorney:  Date: Feb 6, 2021Reviewed by Finance Director:  Date: Feb 10, 2021**Summary:**

This resolution will create a pre-review process when selecting underperforming property assets, which will require obtaining Governing Body approval before announcing any City real property to be offered for sale. It is notable that this resolution does not set a minimum threshold to trigger a public presentation, which mean any sale of any real property would need to be presented to Governing Body in a public presentation this could be an issue as it relates to staff time (see staff expense calculation) and Governing Body review time. This could also create a likelihood that staff will seek a private sale without a public announcement to avoid this requirement when timing is an issue. The resolution does not prohibit executive session, which would be necessary should issues of sales/marketing strategy, personal confidentiality, ongoing personal litigations, etc., need to be discussed in Executive Session before a public offering notice is produced.

Note: Current practice is that all land and property assets subject to public offering for sale are submitted to the Governing Body for proposal review during Executive Session, then a public notice is placed both on the website and as ads within the newspaper. Then, to sell a piece of real property an ordinance and purchase agreement are brought to the Governing Body for a public hearing as required by statute and any sales over \$25,000 are subject to a referendum period. This ordinance-mandated process, will make two public presentation required for a sale of real property, one to obtain permission to place the real property for sale and one for the sale process required by statute.

Departments Affected:Community and Economic Development and the City Attorney's Office.**Consequences of Not Enacting Legislation:**If this resolution is not enacted, there are no consequences because the City currently meets all legal requirements for selling real property.**Conflict, Duplication, Companionship, or Relationship to Other Legislation:**None identified.**Performance and Administrative Implications:**

Unintended consequences, additional staff overtime expense could be incurred if the Asset Development Division and the City Attorney's Office will need to create a series of Governing Body recommendation packets for public hearing. As well as, with large parcels, this could delay the go-to-market option by up to six months or more; depending on any amendments, changes, market data requests, etc. Some of this process could be done internally, but the potential added cycles of gaining majority approval may not match the timing of the market interest.

Fiscal Implications:

Unintended fiscal implication: Additional internal staff overtime expense for any time to prepare, redact, and/or resubmit public offering proposals if a majority approval for each select land/property asset is not achieved through the Committee process leading up to the Governing Body meeting.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 21	FYE 22	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and	\$25,024.00	\$29,194.00	\$ 0	N	R	2122800	
Benefits*	_____	_____				_____	
Capital Outlay	\$ _____	\$ _____	\$ _____	_____	_____	_____	
Contractual/	\$ 5,000	\$ 8,000	\$ 0			2122800	
Professional Services						_____	
Operating	\$ _____	\$ _____	\$ _____			2122800	\$ _____

Total:	\$30,024.00	\$37,194.00	\$ 0				\$67,218.00
	_____	_____					

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

Note: Additional, unintended staff overtime expense could be incurred if the Asset Development Division will need to create a series of Governing Body recommendation packets that is be present for public debate. With large parcels, this could delay the go-to-market option by up to six months or more; depending on any amendments, changes, market data requests, etc. Some of this process could be done internally, but the potential added cycles of gaining majority approval may not match the market interest.

Revenue

Revenue Type	FYE __	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

Revenue Narrative:



City of Santa Fe, New Mexico

Memorandum



DATE: January 19, 2021

TO: Governing Body

VIA: Jarel LaPan Hill, City Manager
Mary McCoy, Finance Department Director
Fran Dunaway, Chief Procurement Officer
Paul Babcock, Fire Chief P.B

FROM: Brian Moya, Assistant Fire Chief BM

ITEM AND ISSUE:

Amendment No. 3 to Memorandum of Agreement between Santa Fe County and the City of Santa Fe for the Public Safety Radio Communications System Solutions Project. Request for the Approval of Amendment 3 of Memorandum of Agreement in the Total Amount of \$0 for implementation of any upgraded communication system that would benefit the community and constituents; Santa Fe County; Brian Moya, Assistant Chief, bjmoya@santafenm.gov; 955-3111.

BACKGROUND AND SUMMARY:

Amendment 3 to Joint Memorandum of Agreement between Santa Fe County and the City of Santa Fe No. 2019-0179-RECC/BT-CSF Item #19-0222. This Amendment is to extend the term date from December 31, 2020 to June 30, 2021.

PROCUREMENT METHOD:

No financial responsibility on this amendment.

Exemption Determination Request 13-1-98 A

CONTRACT NUMBER:

The FY20 Munis contract number is 3202496.

FUNDING SOURCE:

No financial responsibility on this amendment.

The funding source is:

Fund Name/Number: N/A

Munis Org Name/Number: N/A

Munis Object Name/Number: N/A

ACTION REQUESTED:

Department Name respectfully requests your review and approval.

**AMENDMENT NO. 3 TO MEMORANDUM OF AGREEMENT
BETWEEN SANTA FE COUNTY AND THE CITY OF SANTA FE FOR THE
PUBLIC SAFETY RADIO COMMUNICATIONS SYSTEM SOLUTIONS PROJECT**

AMENDMENT No. 3 to the Memorandum of Agreement, dated April 3, 2019 (the "MOA"), between the City of Santa Fe (the "City) and Santa Fe County (the "County").

RECITALS

WHEREAS, on April 3, 2019, the County and City entered into Memorandum of Agreement No. 2019-0179-RECC/BT (the MOA) to provide for the implementation of any upgraded communications system that would benefit the community and constituents; and

WHEREAS, by Amendment Nos. 1 and 2 to the MOA, the term was extended to December 31, 2020, and the MOA was amended to provide for the inclusion of additional recording channels, associated software and licenses and the payment of such additional equipment by the parties; and

WHEREAS, the term of the MOA is due to expire December 31, 2020, and the parties wish to extend the term to June 30, 2021.

NOW THEREFORE, the parties the MOA agree to amend the MOA as follows:

1. Article 3 (Effective Date and Term) is amended by inserting a subpart (b) to read:

(b) By Amendment No. 3 the term of this Agreement is extended to June 30, 2021.

2. All other provisions of the MOA not specifically amended or modified by Amendment Nos. 1, 2 and this Amendment No. 3 shall remain in full force and effect.

CITY OF SANTA FE

Alan Webber, Mayor

Date

City Attorney's Office:

Marcos Martinez

Marcos Martinez (Jan 5, 2021 16:33 MST)

Senior Assistant
City Attorney

Jan 5, 2021

Date

Approved for Finance:

Mary T. McCoy, Finance Dir.

Date

ATTEST:

City Clerk

Date

SANTA FE COUNTY



Katherine Miller
Santa Fe County Manager

12-11-2020

Date

Approved as to form:

Roberta D. Joe for G.S.S.

Gregory S. Shaffer
Santa Fe County Attorney

December 3, 2020

Date

Finance Division:



Yvonne S. Herrera
Finance Director

12/8/2020

Date



City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3202496

Contractor: Santa Fe County

Description: **Provide for te implemetation of ay upgraded communications system that would benefit the Community and Constituents.**

Contract Agreement Lease / Rent Amendment

Term Start Date: 4/3/19 Term End Date: 12/31/2020

Approved by Council Date: _____

Contract / Lease: MOU 2019-0179-RECC/BT

Amendment # 3 to the Original Contract / Lease # MOU 2019-0179-RECC

Increase/(Decrease) Amount \$ 0 (no financial responsibility on this amendment)

Extend Termination Date to: June 30, 2021

Approved by Council Date: _____

Amendment is for: to extend term date from 12/30/20 to 6/30/21

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)
Amenddment 2 extend term date to 12/20/20 and increased Agreement from \$1,743,999.00 to \$1,825,264.12.

3. Procurement History: _____

Fran D. Hawway
Fran D. Hawway (Jan 21, 2021 09:55 MST)

Jan 21, 2021

Purchasing Officer Review: _____

Date: _____

Comment & Exceptions: _____

4. Funding Source: _____ Org / Object: _____

Alexis Lotero
Alexis Lotero (Jan 21, 2021 09:46 MST)

Jan 21, 2021

Budget Officer Approval: _____

Date: _____

Comment & Exceptions: _____

Staff Contact who completed this form: Brian Moya Phone # 955-3111

Email: bjmoya@santafenm.gov

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

City of Santa Fe, New Mexico
MEMORANDUM
memo

Date: January 19, 2021

To: Fran Dunaway, Chief Procurement Officer

From: Brian Moya, Assistant Fire Chief *BM*

Subject: Exemption Determination Request 13-1-98 A

Fire Department respectfully request exempt determination to be approved by the City's CPO, Fran Dunaway. The Memorandum of Agreement is between Santa Fe County and City of Santa Fe for the RECC

City of Santa Fe follows the New Mexico State Procurement code.

- A. *procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through [13-1-137](#) NMSA 1978;*

Amount: No financial responsibility on MOA

Term: Extended term from December 31, 2020 to June 20, 2021

Approved Exemption

Fran Dunaway, Chief Procurement Officer



CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Santa Fe County

Procurement Title: Amendment No. 3 to Memorandum of Agreement between Santa Fe County and the City of Santa Fe for the Public Safety Radio Communications System Solutions Project

Procurement Method: State Price Agreement Cooperative Sole Source Other no financial responsibility.

Exempt Request For Proposal (RFP) Invitation To Bid (ITB) Contract under 60K Contract over 60K

Department Requesting Fire Department Staff Name Brian Moya, Assistant Fire Chief

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees. .

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Price Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	RFP
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Evaluation Committee Report
<input type="checkbox"/>	<input checked="" type="checkbox"/>	ITB
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Bib Tab
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Quotes (3 valid current quotes)
<input type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole Source Request and Determination Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contractors Exempt Letter
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Purchasing Officers approval for exempt procurement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BAR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Executed Contract, Agreement or Amendment
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contracts and Agreements form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Certificate of Insurance
<input checked="" type="checkbox"/>	<input type="checkbox"/>	All documentation presented to Committees
<input type="checkbox"/>	<input type="checkbox"/>	Other: _____

Brian Moya Assistant Fire Chief 1/29/21
 Department Rep Printed Name (attesting that all information included) Title Date

 Purchasing Officer (attesting that all information is reviewed) Title Date

*

Item #20-0398

Amendment No. 2 to MOU No. 2019-0179-
RECC/BT; CSF Item # 19-0222

AMENDMENT NO. 2 TO MEMORANDUM OF AGREEMENT BETWEEN SANTA FE COUNTY AND THE CITY OF SANTA FE FOR THE PUBLIC SAFETY RADIO COMMUNICATIONS SYSTEM SOLUTIONS PROJECT

AMENDMENT No. 2 to the Memorandum of Agreement, dated April 3, 2019 (the "MOA"), between the City of Santa Fe (the "City") and Santa Fe County (the "County").

RECITALS

WHEREAS, according to the MOA, the City and County agreed to share the costs of the Santa Fe Public Safety Radio Communications System Solutions Project; and

WHEREAS, the parties have determined that the Project is enhanced by the inclusion of additional recording channels, associated software and licenses, hardware, equipment and related professional services necessary to the incorporation of additional recording channels. These additional services are necessary in order to establish or support proper recording connectivity and communications to the Project

NOW THEREFORE, the parties the MOA agree to amend the MOA as follows:

1. Section 1 (Scope of Work) subpart A is amended by inserting a subpart 3 to read:
 - 3) By Amendment No. 2 to this MOA, the parties agree to obtain additional recording channels, software and associated licenses, hardware and equipment, and associated professional services for the Project.
2. Section 2 (Compensation) subpart A is amended by deleting "\$1,743,999.99" and replacing it with "\$1,825,263.12".
3. Section 2 (Compensation) subpart A is amended by inserting a subpart 3) to read:

3) The additional recording channels and associated software and services added by Amendment No. 2 - \$81,263.13 (to be split 50/50 between the County and the City - \$40,631.56 each).
4. All other provisions of the MOA not specifically amended or modified by Amendment No. 1 and this Amendment No. 2 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands.

CITY OF SANTA FE:

COUNTY OF SANTA FE:



Alan Webber, Mayor



Katherine Miller
Santa Fe County Manager

Date: Sep 1, 2020

Date: 10/05/2020

City Attorney's Office:



Senior Assistant City Attorney

Approved as to form:

Roberta D. Joe for G.S.S. 9/30/2020

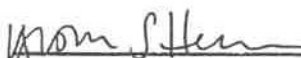

Gregory S. Shaffer
Santa Fe County Attorney

Approved for Finances:



Mary T. McCoy, Finance Director

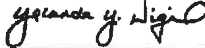
Finance Division:




Yvonne S. Herrera
Finance Director

10/07/2020

ATTEST:



Yolanda Y. Vigil, City Clerk

GB Mtg 08/12/2020 

**MEMORANDUM OF AGREEMENT ITEM # 19-0222
BETWEEN SANTA FE COUNTY AND
THE CITY OF SANTA FE FOR THE
PUBLIC SAFETY RADIO COMMUNICATIONS SYSTEM SOLUTIONS PROJECT**

THIS MEMORANDUM OF AGREEMENT (MOA) is entered on this 3 day of April, 2019, between Santa Fe County (hereinafter the "County"), a political subdivision of the state of New Mexico, and the City of Santa Fe, (hereinafter the "City").

RECITALS

WHEREAS, in the spirit of cooperation, mutual respect and service to the residents of the County, this MOA confirms the parties' commitment and mutual cooperation which recognizes that the partnering activities between government entities may produce community and constituency benefits beyond what might be produced independently; and

WHEREAS, this MOA is exempt from the provisions of the Procurement Code in accordance with to Section 13-1-98 (A), NMSA 1978; and

WHEREAS, in November 2001, the County and City (collectively the Parties) entered into a Joint Powers Agreement (JPA) for the purpose of defining the terms and conditions of operating, administering, and maintaining a Joint Enhanced 911 Regional Communications Center (RECC); and

WHEREAS, the City is securing services of a PSR Consultant to conduct a IV & V assessment of the PSR project. This consultant will represent the City in all technical discussions regarding the major PSR component specifications; and

WHEREAS, the Project 25 (P25) is a suite of standards for digital mobile radio communications designed for use by public safety organizations in North America. P25 radios are a direct replacement for analog UHF radios but P25 radios have the capability to transfer data as well as voice, allowing for a more natural implementation of encryption or messaging. P25 radios are commonly implemented by dispatch organizations, such as police, fire, ambulance and emergency rescue service, using vehicle-mounted radios combined with walkie-talkie handheld use; and

WHEREAS, the City has completed the specifications for the project to upgrade their existing 15 Channel Repeater Site (Prime Site); and

WHEREAS, the Parties have agreed to undertake the County and City of Santa Fe Public Safety Radio Communications System Solutions Project (Project) which includes the P25 and Prime Site components by participating in cost sharing of the Project infrastructure and/or services with the County serving as fiscal agent for the Project; and

SFC CLERK RECORDED 04/04/2019

4-11-2019
CERTIFIED A TRUE AND CORRECT COPY
OF Memorandum of Agreement
RECORDED ON April 10, 2019
AS INSTRUMENT NO. 1882821
GERALDINE SALAZAR
SANTA FE COUNTY CLERK
BY [Signature] Deputy

3

WHEREAS, the Parties agree the project components described in this MOA are of mutual interest and benefit to the County and City.

NOW, THEREFORE, the parties agree as follows:

1. SCOPE OF WORK

A. The Project will be implemented under one procurement completed by the County as follows:

1) Acquisition of the P25 Core and 13 Motorola P25 Dispatch Consoles which will be located at the RECC and funded 50/50 per the JPA which established and authorized the RECC.

2) Acquisition of the 15-channel Motorola P25 Site Equipment which will be located at the City of Santa Fe's prime site location and will be funded 100% by the City.

B. In accordance with applicable state law and County ordinance, the County will use a procurement method deemed to be in the best interest of the County and the Project.

2. COMPENSATION

A. The total cost of the Project shall not exceed \$1,743,999.99 as follows:

1) RECC P25 Core and 13 Motorola P25 Dispatch Consoles - \$1,173,658.00 (to be split 50/50 between County and City - \$586,829.00 each)

2) City 15-channel Motorola P25 Site Equipment - \$570,340.07
(to be paid 100% by City)

B. During the term of this Agreement, the County shall invoice the City for expenses incurred by the County for the Project.

3. EFFECTIVE DATE AND TERM

This Agreement shall become effective upon the date of last signature by the parties and will terminate December 31, 2019, unless earlier terminated pursuant to Section 4 (Termination) or Section 13 (Appropriations and Authorizations) below.

4. TERMINATION

A. Termination of Agreement. This Agreement may be terminated by the County or the City upon written notice to the other party at least 30 days prior to the intended date of termination. By such termination, no party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

B. Termination of Agreement for Cause. If a party fails to fulfill in a timely and proper manner its obligations under this MOA, or if a party violates any of the covenants, agreements, or stipulations of this MOA, the non-breaching party shall thereupon have the right to suspend or terminate this MOA by giving written notice to the other party such termination and specifying the effective date thereof.

SFC CLERK RECORDED 04/04/2019

Notwithstanding the above, no party shall be relieved of liability to the other party for damages sustained because of the breach of this MOA.

5. PERSONNEL

- A. The Parties represent that they have, or will secure at their own expense, all personnel required to perform all of the services required of it under this MOA.
- B. All services required hereunder will be performed by the County via contracted services and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.

6. ASSIGNMENT

The Parties shall not assign or transfer any interest in this MOA or assign any claims for money due or to become due under this MOA without prior written approval of both Parties.

7. NO THIRD-PARTY BENEFICIARIES

This MOA was not intended to and does not create any rights in any persons or party not a party to this Agreement.

8. RELEASE

Respective final payment by the Parties of the amounts due under this MOA shall operate as a release of the City and County, their officers and employees, and the City and Santa Fe County from all liabilities, claims and obligations whatsoever arising from or under this MOA.

9. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omission in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act §41-4-1, et seq., NMSA 1978.

10. AMENDMENT

This MOA shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto.

11. INTEGRATION CLAUSE

This Agreement incorporates all covenants and understandings the parties hereto concerning the subject matter hereof, and all such covenants and understandings have been merged into this MOA. No prior covenants or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this MOA.

SFC CLERK RECORDED 04/04/2019

12. APPLICABLE LAW; VENUE

The activities or services under this MOA shall be performed and completed in accordance with the laws of the State of New Mexico. The City and the County agree that exclusive forum for any litigation between them arising out of or related to this Agreement shall be the State District Court of New Mexico, First Judicial District, located in Santa Fe County.

13. APPROPRIATIONS AND AUTHORIZATIONS

This MOA is contingent upon sufficient appropriations and authorizations being made by the Santa Fe County Board of County Commissioners, the City of Santa Fe and, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made, this MOA shall terminate immediately upon written notice being given by the City and County. Such termination shall be without penalty to the City and County, and the City and County shall have no duty to reimburse the City or County for expenditures made in the performance of this MOA. The City and County are expressly not committed to expenditure of funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the City and County. The City and County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this MOA shall be final and not subject to challenge by the City or County.

14. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

15. NEW MEXICO TORT CLAIMS ACT

No provisions of this MOA modifies or waives any sovereign immunity or limitation of liability enjoyed by the County of its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, §41-4-1, et seq.

16. PROHIBITED ACTIVITY

The County and the City are prohibited from using funds provided herein or using personnel employed for the administration of this Agreement, for political activities, sectarian or religious activities, lobbying or political patronage.

17. RECORDS AND FINANCIAL AUDIT

- A. To the extent its books and records relate to (i) its performance of this MOA or any subcontract entered into pursuant to it or (ii) cost or pricing data in this MOA, agrees to (i) maintain such books and records during the term of this MOA and for a period of six years from the date of final payment under this Agreement; (ii) allow the County or

SEC CLERK RECORDED 04/04/2019

its designee to audit such books and records at reasonable notice; (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").

- B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data in this MOA, also agrees to require any subcontractor the Parties may hire to perform its obligations under this MOA to (i) maintain such books and records during the term of this MOA and for a period of six years from the date of final payment under any subcontract; (ii) allow the County or its designee to audit such books and records in accordance with GAAP.

18. PENALTIES FOR VIOLATIONS OF LAW

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

19. EQUAL OPPORTUNITY COMPLIANCE

The County and City agrees to abide by all federal and state laws, rules, and regulations, pertaining to equal employment opportunity. In accordance with such laws, the City assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity be excluded from employment with or participation in, be denied the benefits of, or otherwise subjected to discrimination under any activity performed under this MOA. If is found not to be in compliance with these requirements during the life of this Agreement, agrees to take appropriate steps to correct these deficiencies.

20. INVALID TERM OR CONDITION

If any term or condition of this Agreement shall be valid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

21. NOTICES

Any notice required by this MOA shall be given in writing to the parties designated below. Notice shall be effective when delivered personally to any party, or three business days after deposited, postage fully prepaid, registered or certified, in an official receptacle of the U.S. Postal Service.

COUNTY: Attn: County Manager
Santa Fe County
102 Grant Avenue
P.O. Box 276
Santa Fe, New Mexico 87504-0276

SEC CLERK RECORDED 04/04/2019

CITY: Attn: City Manager
City of Santa Fe
200 Lincoln Avenue
Santa Fe, New Mexico 87504-0276

22. SURVIVAL

The provisions of the following paragraphs shall survive the termination of this MOA:
RECORDS AND FINANCIAL AUDIT; RELEASE; APPLICABLE LAW VENUE; NO THIRD
PARTY BENEFICIARIES; SURVIVAL.

IN WITNESS WHEREOF the parties have duly executed this MOA as of the last date of
signature by the parties hereto.



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

MEMORANDUM OF AGREEMENT
PAGES: 7

SANTA FE COUNTY:

Anna T. Hamilton
Anna T. Hamilton Chair,
Santa Fe County Board of County Commissioners

Hereby Certify That This Instrument Was Filed for
Record On The 4TH Day Of April, 2019 at 11:16:24 AM
And Was Duly Recorded as Instrument # 1882827
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy *Estrella Martinez* County Clerk, Santa Fe, NM

ATTESTATION:

Geraldine Salazar
Geraldine Salazar
Santa Fe Clerk
Date: 4-3-2019

Approved as to form:

R. Bruce Frederick
R. Bruce Frederick
Santa Fe County Attorney

Date: 4-1-19

Finance Department:


Erika D. Thomas
Erika D. Thomas
Interim Finance Director

Date: 4-1-19




CLERK RECORDED BY BARBARA

CITY OF SANTA FE


Alan Webber, Mayor

Date: 3/29/19


Attest:


Yolanda Villarreal
City Clerk



Date: 3-29-19

Approved as to form:


Erin K. McSherry, City Attorney

Date: 3/1/19

Approved:


Mary McCoy, Finance Director

Date: 3/29/19

Business Unit/Line Item:
32148. 572970.0119900

SEC CLERK RECEIVED 04/04/2019



City of Santa Fe, New Mexico

Memorandum



DATE: February 1, 2021

TO: Governing Body

VIA: Regina Wheeler, Public Works Department Director *RW*
Rich Brown, Community and Economic Development Department Director *RB*

FROM: Sam Burnett, Public Works Property Maintenance Manager

ITEM AND ACTION:

Request for the Approval of Amendment #2 to Lease Agreement #20-0257 by and between the City of Santa Fe and Garson Studios, Ltd., to extend the term of the lease by 18 months or until August 26, 2022; Sam Burnett, Public Works Property Maintenance Manager, (jsburnett@santafenm.gov, 505-795-2491).

BACKGROUND AND SUMMARY:

The City leases to Garson Studios, Ltd. the Garson Studio Complex, which is made up of the Garson Communication Center, the Garson Film School and the Garson Production Offices for the purpose of film and television production. The lease allows Garson Studios, Ltd. to license to film production companies the locations listed and other facilities throughout the campus at the discretion of the City.

To date, Garson Studios, Ltd. has paid the City approximately \$1,330,000 in lease and license fees. The current projection for the FY21 is \$500,000 in rental income and \$750,000 in FY22. The City also benefits indirectly from the presence of film production on the site. Film productions hire local film industry workers, spend considerable amounts of money with our local business, and generate GRT.

Film production stages throughout northern New Mexico are currently booked and there is a high demand for the Garson Studio facilities. Movie Maker Magazine just ranked Santa Fe as the 2nd best small city or town for film industry workers to live and work in and Albuquerque as the #1 large city. This indicates that the demand for film production space in Santa Fe is likely to continue to grow.

This Amendment provides an eighteen-month extension of the lease term to August 26, 2022 and includes four additional six-month extensions that may be granted to Garson Studios, Ltd. at the City's sole discretion.

**CITY OF SANTA FE
AMENDMENT # 2 TO
THE LEASE AGREEMENT BETWEEN THE CITY OF SANTA FE AND GARSON STUDIOS
SANTA FE LLC, A NEW MEXICO LIMITED LIABILITY COMPANY**

This Amendment # 2 (the "Amendment #2") to the City of Santa Fe Lease Agreement ("Lease"), Item # 19-0341, dated May 9, 2019, as amended by Amendment # 1, Item # 20-0257, dated May 27th, 2020 (the "Amendment #1") between the CITY OF SANTA FE, New Mexico ("City", "Lessor") and GARSON STUDIOS SANTA FE LLC, a New Mexico limited liability company ("GSSF", Lessee) (collectively the "Parties") is hereby made and shall be effective on February 27th, 2021.

RECITALS:

- A. The Lessor and Lessee are parties to the Lease under which the Lessee leases Lessor-owned real property, referred to as the Midtown campus (hereinafter "**Midtown Campus**"), and generally located at 1600 St. Michaels Drive in the City of Santa Fe, NM. The Premises delineated in Section 1(A) and **Exhibit A** of the Lease are located within the Midtown Campus. The Lease and this Amendment # 2 to the Lease are to facilitate the continued commercial use of the Premises for film, television, and media production.
- B. By virtue of the Term currently in effect under Amendment # 1, Section 2(A) (amending Section 3(A) of the Lease), and under the Shelter in Place Extension under Amendment # 1, Section 2(C) (amending Section 3(E) of the Lease), the Term of this lease has been extended through February 26, 2021.
- C. The Parties to the Lease understand that the Premises and Grounds on the Midtown Campus are the subject of a Request for Expressions of Interest process ("**RFEI**") for the redevelopment and eventual disposition of the campus to be developed over the course of the next several years. The development program at the Midtown Campus includes the ongoing operations and expansion of the film and multi-media production uses, as well as film production school and training.
- D. The parties wish to solely modify Sections 1, 3, 4, and 16 of the Lease as set forth herein, and to keep all remaining Sections of Amendment # 1 and the underlying Lease intact.

WITNESSETH:

In consideration of Lessee's promises herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree that the Lease be amended as follows:

AMENDMENT:

1. Amendments to Section 1, "Premises Granted," of the Lease and Amendment #1.

- A. By this Amendment, Section 1(A), "Exclusive Use," of the Lease, as amended by Section 1(A) of Amendment # 1, is hereby removed and replaced in its entirety with the following:

A. Exclusive Use. Lessor allows Lessee to exclusively use and occupy, and subject to the terms and conditions of this Lease, that certain portions of existing Lessor-owned property, as described below and shown on **Exhibit A** attached to the Lease and incorporated herein (the "**Premises**"). The Premises consists of the following Lessor-owned real property located at 1600 St. Michael's Drive, Santa Fe, New Mexico and includes the Lessor's personal property within it:

<u>Garson Studios Area</u>	<u>Quantity</u>
Department Head Office	330 Square Feet
Stages A, B & C and Production Offices	29,168 Square Feet
Parking Lot G	4.6 Acres

B. By this Amendment, Section 1(C), "Non-Exclusive Ingress and Egress across Grounds," of the Lease, as amended by Section 1(B) of Amendment # 1, is hereby removed and replaced in its entirety with the following:

C. Non-Exclusive Ingress and Egress across Grounds. Lessor grants the Lessee non-exclusive ingress and egress to the Premises through the Lessor-owned property at Midtown campus located at 1600 St. Michael's Drive in Santa Fe, New Mexico described and shown on **Exhibit B** (the "**Grounds**"), subject to any existing or future leases, licenses, permitted uses or occupancies by others by the Lessor, upon portions of property on the Grounds that the Lessor may, without limitation, enter into or assign.

2. Amendments to Section 3, "Term," of the Lease.

A. By this Amendment, Section 3(A), "Term," of the Lease, as amended by Section 2(A) of Amendment # 1, is hereby removed and replaced in its entirety with the following:

A. Term. The term of this Lease, (the "**Term**"), commenced at 12:00 a.m. on the Effective Date of the Lease. The Lease shall terminate at midnight on August 26, 2022.

B. By this Amendment, Section 3(B), "Twenty-Four Month Maximum Holdover," of the Lease, as set forth in Section 2(B) of Amendment # 1, is hereby removed and replaced in its entirety with the following:

B. Holdover Extensions. Six (6) months prior to the expiration of the Term of this Lease or any Holdover Extension previously granted by the City pursuant to this Section 3(B), the City may at its sole discretion grant the Lessee a six (6) month extension of the Lease's term then in effect (each such period being a "**Holdover Extension**"). There may be up to four (4) such Holdover Extensions of six (6) months each.

3. Amendment to Section 4, "Use of Premises and Grounds," of the Lease.

A. By this Amendment, Section 4(A), "Licensed Use," of the Lease, as amended by Section 3(A) of Amendment # 1, shall be removed and replaced in its entirety with the following:

A. Licensed Use; Adjustment of Premises Footprint During Term. Lessee shall use the Premises for the purpose of licensing its use by film, television, and media production entities ("**Production Entities**") to produce films, broadcast media, or television shows ("**Films**") and for the purposes of commercial uses associated with the Production Entities'

Allowed Use of the property. Lessee shall not license or otherwise encumber the Premises or Grounds for any other purpose without Lessor's prior written approval.

4. Amendments to Section 16, "Termination," of the Lease.

A. By this Amendment, Section 16(A), "Termination by Lessor," of the Lease, as amended by Section 7(A) of Amendment # 1, is hereby removed and replaced in its entirety with the following:

A. Termination for Cause by Lessor. In addition to Lessor's right of non-renewal as described in Section 3(B) of this Lease, Lessor may only terminate this Lease for cause upon Lessee's failure to comply with any provisions contained herein. Prior to termination for cause, Lessor shall hand-deliver or mail notice to Lessee via certified or registered mail specifying:

- (i) the breach by Lessee;
- (ii) the action required by Lessee to cure the breach;
- (iii) a date, not less than fifteen (15) days from the date the notice is hand-delivered or mailed to Lessee, by which such breach must be cured; and
- (iv) that failure to cure the such breach on or before the date specified in the notice will result in termination of the Lease.

B. By this Amendment, Section 16(B), "Termination by Lessee," of the Lease, is hereby removed and replaced with the following:

B. Termination Without Cause by Lessee or Lessor. Lessee may terminate this Lease with written notice to Lessor at least one-hundred eighty (180) days prior to the termination date. Lessor may terminate this Lease in the exercise of its right of non-renewal pursuant to Section 3(B) of this Lease with written notice to Lessee at least one-hundred eighty (180) days prior to the expiration of the Term or any Holdover Extension then in effect.

Except as specifically provided in this Amendment # 2, the Lease and Amendment # 1 remains and shall remain in full force and effect, in accordance with its term.

IN WITNESS WHEREOF, the parties have executed this Amendment #2 as of this _____ day of _____, 2021.

LESSOR:
CITY OF SANTA FE

ALAN WEBBER, MAYOR

APPROVED AS TO FORM FOR LEGAL SUFFICIENCY:

Andrea Salazar
ERIN K. MCSHERRY, CITY ATTORNEY

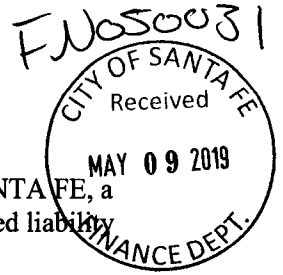
APPROVED AT TO FINANCE:

MARY T. MCCOY, FINANCE DIRECTOR

ATTEST:

KRISTINE M. MIHELICIC, CITY CLERK

**LEASE AGREEMENT
GARSON STUDIOS
1600 ST. MICHAEL'S DRIVE
SANTA FE, NEW MEXICO**



This LEASE AGREEMENT ("**Lease**") is made and entered into by and between the CITY OF SANTA FE, a municipal corporation ("**Lessor**") and GARSON STUDIOS SANTA FE LLC, a New Mexico limited liability company ("**Lessee**"), collectively the "**Parties**".

WITNESSETH:

In consideration of the Lessee's promises herein, Lessor grants Lessee a Lease, terminable as hereinafter provided, to enter on and make use of the real property of Lessor as follows:

1. PREMISES GRANTED

A. Exclusive Use. Lessor allows Lessee to exclusively use and occupy, and subject to the terms and conditions of this Lease, that certain portion of existing Lessor-owned property, as described below and shown on **Exhibit A** attached hereto and incorporated herein (the "**Premises**"). The Premises consists of the following Lessor-owned real property located at 1600 St. Michael's Drive, Santa Fe, New Mexico and includes the Lessor's personal property within it:

<u>Garson Studios Area</u>	<u>Quantity</u>
Department Head Office	330 Square Feet
Stages A, B & C and Production Offices	29,168 Square Feet
Parking Lot G	4.6 Acres

B. Option to Temporarily Reduce the Premises. Lessee has the exclusive option to temporarily reduce the area of Premises if the areas to be reduced are not licensed, used, occupied or otherwise encumbered by the Lessee or any licensee of the Lessee during the period of time in which the temporary reduction occurs. Five days before the beginning of any month in which the Lessee will be exercising the option to temporarily reduce the Premises, Lessee shall notify the Lessor of the portions of the Premises which are not reduced ("**Temporarily Reduced Premises**"), the beginning and end dates of the reduction, and the Base Rent that will be due on the first of the month under Lease Section 6.A.

C. Non-Exclusive Ingress and Egress across Grounds. Lessor grants the Lessee non-exclusive ingress and egress to the Premises through the Lessor-owned property at Midtown campus located at 1600 St. Michael's Drive in Santa Fe, New Mexico described and shown on **Exhibit B** (the "**Grounds**"), subject to any existing or future leases, licenses, permitted uses or occupancies by others by the Lessor, upon portions of property on the Grounds that the Lessor may, without limitation, enter into or assign.

D. Condition. Lessee accepts the Premises in its present state and agrees that it is in good condition, without any representation or warranty by Lessor as to the condition of the Premises and Grounds or as to the use which may be made thereof.

2. EFFECTIVE DATE

This Lease shall become effective when signed by the Lessor and the Lessee, whichever occurs last (the **Effective Date**).

3. TERM

A. Term. The term of this Lease shall commence at 12:00 a.m. on the Effective Date. The term of this Lease (the "**Term**") shall terminate at midnight of the day that occurs one calendar year after the Effective Date).

B. Thirty-Six Month Maximum Holdover. In the event Lessee remains in possession of the Premises after the expiration of the Term of this Lease, such possession may, at the sole option of Lessor, be continued for one or

more six-month holdover period(s) up to a maximum of thirty-six months and shall terminate no later than midnight of the day that occurs four calendar years after the Effective Date, and the terms and conditions of the Lease shall be otherwise applicable. Lessor's approval of each six-month holdover period is deemed granted unless the Lessor gives notice otherwise at any time prior to the expiration of the Term or holdover in effect at the time such notice is given, per conditions specified in Sections 16 and 18 of this Lease.

C. Validity of Licenses. The expiration or termination of this Lease shall not affect the validity of any license which has received prior written approval by the Lessor for use of the Premises, and which was made by the Lessee prior to the expiration or termination of this Lease.

D. No Renewal or Extension. This Lease may not be renewed or extended by the Parties, except as provided in Part 3.B of this Lease. If Lessee wishes to have a lease agreement at the termination or expiration of this Lease, the Lessee shall contact the Lessor at least two months prior to such expiration or termination to initiate discussions of a new lease agreement.

4. USE OF PREMISES AND GROUNDS

A. Licensed Use. Lessee shall use the Premises and Grounds for the purposes of licensing their use by film, television, and media production entities ("**Production Entities**") to produce films, broadcast media, or television shows ("**Films**") and for the purposes of commercial uses associated with the Production Entities' Allowed Use of the property.

Lessee shall not license or otherwise encumber the Premises or Grounds for any other purpose, without prior written approval by the Lessor. Lessee may use the Premises and Grounds or portions thereof for Allowed Uses which are not licenses or encumbrances without notifying or seeking consent of the Lessor.

B. Allowed Uses: The Lessee may allow its licensees to use and occupy the Premises or Grounds for Film production, production office, parking, and storage uses related to the Films ("Allowed Uses"). Other commercial uses associated with Production Entities are allowed without the prior consent of the Lessor. Production of obscene material, deemed by the Supreme Court of the United States as not protected by the First Amendment of the U.S. Constitution, is expressly understood to be prohibited and not an Allowed Use. Failure of the Lessee to restrict the use of the Premises as provided herein shall be deemed a substantial breach of this Lease and may constitute grounds for immediate termination by Lessor.

C. Improvements and Alterations. Lessee shall not develop, improve, or otherwise alter, and shall not allow others to develop, improve or otherwise alter the Premises or Grounds, without prior written approval by the Lessor. Lessee shall own any improvements that the Lessee places, or causes to be placed, on the Premises or Grounds during the Term of this Lease, unless the Parties agree otherwise in writing. Upon termination of this Lease, title to any and all such improvements shall pass to Lessor.

D. Trade Fixtures. Lessee shall not install trade fixtures on the Premises or Grounds without prior written approval by the Lessor. All trade fixtures installed by Lessee after the Effective Date of this Lease shall remain the property of Lessee, who shall remove the same upon termination of this Lease, provided that removal shall be done in such a manner as not to injure or damage the Premises or Grounds.

In the event that Lessee fails to remove the trade fixtures, Lessor may require Lessee to remove the same. In the event that Lessee fails to remove said trade fixtures after receipt of notice from Lessor, Lessor may remove and dispose of the same as it sees fit and Lessee agrees to sell, assign, transfer and set over to Lessor all of Lessee's right, title and interest in and to said trade fixtures and any personal property not removed by Lessee. Lessee further agrees that should Lessor remove said trade fixtures pursuant to this paragraph, that Lessee shall pay Lessor upon demand the cost of such removal, plus the cost of transportation and disposal thereof.

E. Repairs and Maintenance. Lessee shall not cause or allow any waste, damage, or injury to the Premises or Grounds or to any improvements made to the Premises or Grounds. Lessee shall keep and maintain the Premises in

good and clean condition at all times and shall promptly perform or cause to be performed any and all required repairs and replacements that arise within the Premises during the Term of this Lease. The cost of repairs and replacements to building systems necessary for occupancy and proper functioning of the buildings in which the Premises are located, such as HVAC, electrical, plumbing, fire alarm and suppression, and roofing systems, shall be performed by the Lessor at its sole expense.

For the purposes of this Section 4E, unless otherwise approved in advance in writing by the Lessor, Lessee's responsibilities for repairs and maintenance of the Premises shall not include major capital improvements such as repairs and replacements to major building systems such as roof membrane systems, heating/ventilation/air-conditioning systems, electrical and plumbing systems, roof and wall structural systems.

In the event Lessee fails to maintain the Premises at a standard acceptable to the Lessor as determined in Lessor's sole discretion, Lessor may terminate this Lease, in accordance with Section 16 herein.

F. Contractors. Any contractor used by the Lessee to repair, maintain or otherwise service the Premises shall be licensed, bonded and insured. These contractual arrangements and costs are the responsibility of Lessee and qualify as Operational Expenses, defined herein.

G. Weight Loads. Lessee shall not allow any vehicles or heavy equipment in the licensed stages on the Premises, without the prior written authorization of the Lessor.

H. Security Guards and Fire Protection Personnel. Lessor shall not bear any responsibility to provide, pay for or otherwise provision security guards and/or fire protection personnel, which Lessor, Lessee, or a licensee may reasonably require for the protection of their respective property and the Premises.

I. Fires, Firearms, Explosives, and Hazardous Wastes. Lessee shall not conduct any dangerous or illegal activities at the Premises or Grounds; keep any toxic, hazardous, dangerous or offensive materials on the Premises or Grounds; or keep substances or articles in or about the Premises or Grounds or any other part of the Lessor's property which will in any way impair or invalidate, or increase the premium costs of insurance policies carried by the Lessor.

Lessee shall not light fires or discharge firearms, smoke effects, or explosives on or about the Premises or Grounds without having first obtained all necessary permits from any and all appropriate governmental authorities and permission from the City's Fire Chief. Lessee shall in all cases have employed or require its licensee to employ a licensed operator to discharge firearms or explosives. Lessee shall secure or shall ensure that any licensee has secured, at the end of each production day, all firearms and explosives brought on the Premises or Grounds by Lessee or its licensee.

Lessee hereby specifically indemnifies and agrees to hold the City and the City's employees, officers, managers, agents and assignees harmless from and against any and all liability, causes of action, damages, costs or expenses, including without limitation reasonable outside attorney's fees, directly arising out of or in any way connected with the use or possession by Lessee or its licensee of firearms, fires, smoke effects, noxious gases and explosives at the Premises or Grounds.

Lessee shall have the sole responsibility for the daily removal and legally proper disposal of all hazardous wastes from the Premises. Lessee shall not spray or otherwise utilize any toxic or hazardous material inside the Premises or Grounds without prior written consent from the Lessor. Any such approved use of toxic or hazardous material shall comply with all applicable legal requirements. Under no circumstance shall Lessee alter in any way, or use for any production purpose, any firehose, sprinkler system or equipment supplying water to the hoses or sprinkler system.

J. Security. The Lessor reserves the right, in its reasonable but sole discretion, to refuse admittance to the Premises or Grounds to any employee, licensee, or other person associated with Lessee who behaves in a negligent or dangerous manner that could result in harm to the Premises or Grounds, or people.

K. Photographic rights. Lessor hereby acknowledges that Lessor does not have any interest in Lessee's or its licensee's still photography, film or other recording on or of the Premises or Grounds, nor any right of action against a licensee or any other party arising out of any use of said photography. Lessor hereby grants to Lessee, its licensees, assigns, and successors the irrevocable and perpetual right, worldwide, in any manner and in any media to use and exploit the films, photographs, and recordings made of or on the Premises or Grounds in connection with the Films in such manner and to such extent as Lessee desires in its sole discretion. Lessee and its licensees, assigns and successors shall be the sole and exclusive owner of all rights of whatever nature, including all copyrights, in and to all films, photographs and recordings made on or of the Premises or Grounds, in perpetuity, throughout the universe. Lessor has no rights of whatever nature, including without limitation all copyrights, in all films, photographs and recordings made of or on said Premises or Grounds in connection with the Film and including, without limitation, the exclusive right to assign and/or license Lessee's or its licensee's rights without restriction or impairment of any kind.

In the event of a breach of this Lease by Lessee or breach of a license by a licensee, Lessor shall not have the right to enjoin or otherwise restrain the production, marketing, or exploitation of the Film.

L. Confidentiality. The Lessor shall not use any name, logo, Film title, trademark or other proprietary mark of Lessee or its licensees in any manner. The Lessor agrees to not officially publicize, advertise or promote the appearance of the Premises or Grounds in the Films, without the prior written consent of Lessee or its licensee. The Lessor's confidentiality obligations hereunder shall apply to any and all media, including, without limitation, any social networking site; microblogging service; user-generated or user-uploaded content website; online forum, discussion thread or comment section; personal website or blog; user modified website; or any other website, service, platform, application or other form or method of communication, whether now known or hereafter devised (e.g., Facebook and Twitter). Lessee acknowledges that the owner and lessor of the Premises and Grounds is the City of Santa Fe, a municipal corporation and political subdivision of the State of New Mexico and, as such, is required to comply with the State of New Mexico Inspection of Public Records Act (IPRA) and, to the extent that Lessor possesses written or electronic information about the Film, that Lessor may be required by law to release that information pursuant to an IPRA information request.

In acknowledgement of the above, and to maintain confidentiality regarding the Film, the Parties agree as follows:

Lessee shall not transmit to Lessor any information regarding the Film that any licensee desires to remain confidential including, without limitation, information and photographs regarding a licensee, participants in the Film (e.g., actors, producers, crew, etc.), the set, storylines and methods of production of the Film and any other non-public information (whether written, electronic, graphic or any other form).

Lessor shall use reasonable care in its responses to IPRA requests to protect, as allowed by law, any of Lessee's or its licensee's confidential information.

M. Compliance with Laws. Lessee's use of the Premises and Grounds shall at all times be in compliance with the City of Santa Fe Municipal Code and other applicable local, state and federal regulations including but not limited to compliance with the City of Santa Fe Integrated Pest Management Policy (§10-7 SFCC 1987) and the City's Noise Ordinance (§10-2 SFCC 1987). Failure of Lessee to comply with conditions of use of the Premises and Grounds as provided herein shall be deemed a breach of this Lease and may constitute grounds for termination of this Lease by the Lessor pursuant to Section 16 of this Lease.

N. Stage Manager. The Lessee shall cause its licensees to be solely responsible to contract with and assume all costs for a Stage Manager approved in advance in writing by the Lessor. The Stage Manager shall comply with all legal, regulatory, and contractual requirements for use of the Premises and Grounds and shall seek and obtain prior written approval by the Lessor for the Lessee or its licensees to use certain personal property in the production of the Film. The Stage Manager shall regulate licensees' ingress, egress and filming on the Premises and Grounds.

O. Condition of Premises and Grounds upon Surrender. Upon expiration or termination of this Lease, Lessee shall, at its expense, strike and remove all sets, materials and equipment placed upon the Premises and Grounds by Lessee

other than the personal property purchased as an Operational Expense, and shall clean the Premises, steam clean the office carpet, and remove all residue and articles of rubbish so as to leave the Premises in substantially the same condition as when Lessee took possession thereof, reasonable wear and tear excepted. In the event Lessee lays materials on or paints any portion of the stage floor, wall, or cyclorama, or makes any alterations as described herein with the Lessor's approval, Lessee shall either restore or compensate the Lessor for restoration of that portion of the premises. Further, to the extent deemed necessary by the Lessor due to the condition of the Premises, the cost of a professional cleaning service will be charged to the Lessee, provided that the Lessor shall provide Lessee with three (3) days prior written notice via email and an opportunity to clean Premises prior to the Lessor charging for such cleaning.

Pursuant to its obligation under the Lease, Lessee specifically agrees to repaint the stage floors whichever stage(s) Lessee uses (Stage A, Stage B and/or Stage C) in a reasonable and professional manner under the direction of the Stage Manager as follows: Dunn-Edwards Rustoleum matte water-based urethane, "Walrus" color; for Stage A, minimum 25 gallons; for Stage B, minimum 12 gallons; for Stage C, minimum 7 gallons. Amounts may be doubled if a second coat is required at the discretion of the Lessor or Stage Manager. For the Green Screen, the use of Mann Brothers paint (or equivalent) is required in the color Digital Green- Vara Bond, Acrylic Latex Flat.

P. Failure to Comply. Failure of Lessee to comply with conditions of use of the Premises and Grounds as provided herein shall be deemed a breach of this Lease and may constitute grounds for termination of this Lease by the Lessor pursuant to Section 16 of this Lease.

5. LICENSES

A. Duty to License Use of Premises. Lessee shall actively pursue and enter into licenses with Production Entities for the use of the Premises or portions thereof. Lessee shall be the "Licensor" to licensees of the Premises.

B. Licensed Use of Grounds. Lessee may license the exclusive use of portions of the Grounds to Production Entities for Films.

C. Form License. Lessee shall use the form license agreement ("**Form License**"), attached as **Exhibit C**, incorporated herein, to license the use of the respective Premises or Grounds or portions thereof, to respective Production Entities. The licensing of the Lessor's personal property, with the exception of typical office furniture, is not included on the Form License and must be approved in writing before any license for such may be entered into.

D. Lessor Approval Required. Prior written approval by the Lessor shall be required before Lessee may enter into any License agreement.

E. Acceptance and Feasibility. In entering this Lease, Lessee agrees that the explicit terms in the Form License are acceptable to the Lessee and feasible for the Lessee to execute.

F. Termination or Expiration of License. Lessee shall immediately notify the Lessor upon any one or more of the following events: Lessee's receipt of notice that a licensee intends to terminate a license with Lessee; Lessee's intent to terminate a license with a licensee; or the termination or expiration of a License.

6. RENT

During the Term of and in consideration of this Lease and the demise of the Premises or Temporarily Reduced Premises by Lessor to Lessee, Lessee hereby agrees and covenants with Lessor to pay for said Premises or Temporarily Reduced Premises the Net Base Rent on the first day of each month in which the use accrues for duration of the Term.

A. Net Base Rent. "**Net Base Rent**" equals the Base Rent or Revised Base Rent, less eligible direct out-of-pocket operational expenses in furtherance of the Lease for that month. For any individual Operational Expense to be eligible for deduction from the Base Rent or Revised Base Rent, such expense must be less than Five Hundred Dollars (\$500.00), unless Lessee obtains prior written approval from Lessor. In addition, prior written Lessor

approval is required if the total Operational Expenses in any given month exceeds Ten Thousand Dollars (\$10,000.00). Net Base Rent equals Base Rent or Revised Base Rent, minus Operational Expenses.

(i) **Base Rent:** "**Base Rent**" shall be the base rent for each month, which shall be calculated as the sum of the respective Quantities of each designated Garson Studio Area comprising the Premises or Temporarily Reduced Premises in the month in which the use accrues, multiplied by the corresponding Annual Rates shown in the following table, and divided by the twelve months of the year:

<u>Garson Studios Area</u>	<u>Quantity</u>	<u>Units</u>	<u>Annual Rate</u>	<u>Monthly Rent</u>
Department Head Office	330	Square Feet	\$15.47 per SF	\$425
Stages A, B & C and Production Offices	29,168	Square Feet	\$22.45 per SF	\$54,575
Parking Lot G	4.6	Acres	\$13,015 per Acre	\$5,000
BASE RENT FOR THE PREMISES				\$60,000

(ii) **Revised Base Rent.** If an MAI-certified appraiser licensed by the State of New Mexico establishes via a real estate appraisal ("**Appraisal**") that the monthly fair market rent (the "**MFMR**") of the Premises or Temporarily Reduced Premises differs by more than 5% from the Base Rent as stated herein, then the Lessor shall obtain the Appraisal and notify Lessee of the Base Rent established thereby. The revised base rent ("**Revised Base Rent**") shall equal the MFMR in the Appraisal and will be due on the first day of the month after the expiration of sixty (60) days' notice to the Lessee.

(iii) **Termination.** Upon notification of the Revised Base Rent by Lessor, Lessee may terminate this Lease in accordance with Section 16 of this Lease. In such event, the Parties agree to negotiate in good faith to establish the amount of the Base Rent due for the period that Lessee occupied the Premises prior to termination.

(iv) **Operational Expense.** "**Operational Expense**" shall mean any and all expense incurred by Lessee in connection with the operation, maintenance and repair of the Premises as necessary for a licensee's production of Films, including, but not limited to, the following: purchases of personal property including without limitation durable, moveable equipment such as refrigerators, washer and dryers, microwaves and coffee machines which are not considered fixtures; charges or fees for, and taxes on, the furnishing of electricity, fuel, water, sewer, gas, oil and other utilities unless otherwise assigned in Section 8.; security; pest control; cleaning of windows; janitorial services; trash and snow removal; landscaping and repair and maintenance of grounds; governmental permits; cleaning supplies; services or management contracts with independent contractors; and the costs of any other items which, under generally accepted accounting principles consistently applies to the Premises. Operational Expenses shall not include any expense which is paid by a licensee, interest, amortization, or other payments on loans to Lessee, whether secured or unsecured; insurance costs; depreciation of the Premises and Grounds or other said improvements; ground rent; leasing commissions; salaries, wages or other compensation paid to officers or executives of Lessor; or income, excess profits or other such taxes imposed on the income of the Lessee from the operation of the Project. All personal property purchased or the value thereof, shall remain on the Premises and become the personal property of the Lessor upon the termination or expiration of this Lease.

(v) Any payment due under the Lease not received by the Lessor within fifteen (15) days of the due date shall be subject to a late payment penalty of five percent (5%) of the amount due.

B. **Grounds License Income:** Lessee shall pay to the Lessor without demand and by the first day of the following month after any income is received by the Lessee for Allowed Uses of the Grounds licensed under this Agreement ("**Grounds License Income**"), the following: 100% of the Grounds License Income.

C. **Sole Financial Responsibility.** In consideration for Lessee's use of the Premises and Grounds as granted by this Lease, Lessee assumes sole financial responsibility for the operation and maintenance of the Premises and shall operate and maintain the Premises at no cost to the Lessor, unless as otherwise provided for herein.

7. RECORDS, ACCOUNTS, AUDITS

A. **Monthly Report.** When Lessee remits the monthly Rent to the Lessor, Lessee shall, without demand, provide to

the Lessor a monthly and "to-date" report that shall include all of the following items:

- (i) Amount due from each licensee per building and real and personal property licensed;
- (ii) Amount paid by each licensee to Lessee;
- (iii) Amount of Grounds License Income paid by Lessee to Lessor;
- (iv) Operational Expenses with supporting documentation including without limitation, invoices, and prior written Lessor approval, as applicable herein; and
- (v) Amount of Net Base Rent paid by Lessee to Lessor.

B. Lease Summary Report. At the termination or expiration of this Lease, Lessee shall submit, without demand, a written summary report "Lease Summary Report" pertaining to Premises, Temporarily Reduced Premises, Net Base Rent, Base Rent/Revised Base Rent, Grounds License Income and Operational Costs for Term.

C. Separate Account. All Grounds License Income must be deposited and maintained in a separate account and shall not be co-mingled with any other funds.

D. Records Inspection and Audit. The Lessee shall maintain, throughout the Term of this Lease and for a period of six years thereafter, all records pertaining to this Lease and Licenses, including but not limited to all amounts received and paid, invoices, receipts and financial accounts. These records shall be subject to inspection upon request by the Lessor. The Lessor shall be entitled to cause independent certified public accountants to conduct an audit of the books and records maintained pursuant to this Lease. The right to conduct an audit includes the right to make tests of the Lessee's accounting records and such other auditing procedure that are appropriate under the circumstances. The audit may be conducted after reasonable notice during regular business hours.

8. UTILITIES & SERVICES

Beginning on the Effective Date and until the termination of this Lease, the responsibility and costs for providing utilities and services to the Premises and Grounds shall be the responsibility of the Parties as specified below:

A. Responsibility of Lessor. All natural gas, electricity, domestic water, and sanitary sewer service shall be provided to the Premises by Lessor. Any water usage that exceeds regular and reasonable usage requires prior written approval from the Lessor and may be subject to additional fees. Lessor shall not be liable for failure or interruptions resulting from any cause including, but not limited to, generator failure, failure or breakdown of public utility services and equipment, acts of God, force majeure, or from good faith acts or decisions of the Lessor, but excluding the willful or intentional misconduct or gross negligence of Lessor.

B. Responsibility of Lessee. All telephone, cable, or satellite television, wired or wireless internet, solid waste collection services, and cleaning services shall be performed or coordinated and paid for by Lessee. Any utilities or services not specified herein shall be the responsibility of the Lessee. Any and all labor, material and utility service rate increases incurred by the Lessor for services provided to Lessee or its licensees during the term of this Lease shall be paid by Lessee. The Lessor shall notify Lessee of all rate increases before commencing such services to Lessee.

9. TAXES

Lessee shall pay all taxes levied and assessed, if any, upon any personal property, buildings, fixtures, and improvements belonging to Lessee and located upon the demised premises, and all leasehold and possessory interest taxes levied or assessed by any proper taxing authority.

10. ASSIGNMENT OR TRANSFER; NO SUBLEASING

Lessee shall not assign or otherwise transfer this Lease, without the prior written approval of the Lessor. Lessee shall not sublease the Premises. Any actions taken by Lessee in violation of this Section 10 may be subject to the immediate termination of this Lease.

11. INSURANCE

Lessee shall at all times maintain and provide adequate insurance coverage which includes, without limitation, each

of the following:

A. Property Insurance. Lessee may at Lessee's sole discretion carry and maintain during the term of this Lease special form ("all risks") property insurance for all improvements to the Premises in an amount sufficient for the full replacement cost of existing structures and improvements if lost or damaged by all perils covered under such special form property insurance. The City of Santa Fe shall be named as Loss Payee on such policy of insurance.

B. Commercial General Liability Insurance. Lessee shall carry and maintain in full force and effect during the term of this Lease, Commercial General Liability insurance, which shall be written on an occurrence based form, covering bodily injury (including death), personal and advertising injury, and property damage, in a form and with an insurance company acceptable to Lessor, with limits of coverage not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Said policy shall include broad form contractual liability coverage and shall be endorsed to name the City of Santa Fe, its officials, employees, and agents as additional insureds. Any excess or umbrella liability insurance maintained by Lessee shall also be endorsed to name the City of Santa Fe, its officials, employees and agents as additional insureds.

C. Workman's Compensation Insurance. Lessee shall carry and maintain in full force and effect during the Term of this Lease, workers' compensation insurance at statutory limits for its employees working at the Premises, and Employer's Liability coverage with limits of not less than \$1,000,000 per accident or disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Santa Fe.

D. Primary and Non-contributory. All insurance required to be maintained by Lessee under this Lease shall be primary and any insurance or self-insurance maintained by Lessor shall not be required to contribute with it.

E. Certificates of Insurance. Within ten (10) days of the Effective Date of this Lease, and thereafter at any time during the Term of this Lease that Lessor requests, Lessee shall provide Lessor with certificates of insurance for each policy evidencing that the coverage required hereunder is current. Such policy shall provide that the coverage evidenced thereby shall not be terminated or modified for any reason without thirty (30) days prior written notice to the Lessor. A certificate or policy which states that failure to give such notice imposes no obligation on the part of the insurer shall be unacceptable to Lessor, and Lessee shall be responsible for removing such language from such certificate or policy.

All policies of insurance shall be written by an insurer with an A. M. Best rating of not less than A- (Excellent), Financial Size Category VII, and must be authorized to do business within the State of New Mexico.

F. License Agreements. Lessee shall cause any and all License agreements, or other agreements related to use, occupation, or development of the Premises or Grounds, that Lessee enters into to contain language that requires the City of Santa Fe, its officials, employees and agents to be named as an additional insured on commercial general liability policies and loss payee on any property insurance policies as provided in this Section 11.

G. Waiver of Subrogation. Lessee hereby grants to the Lessor a waiver of any right to subrogation which any insurer of Lessee may acquire against the Lessor by virtue of the payment of any loss under such insurance. Lessee agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether the Lessor has received a waiver of subrogation endorsement from the insurer.

The Lessor shall have no obligation to allow access to the Premises or Grounds until and unless Lessee has provided to the Lessor the certificates of insurance required above.

12. INDEMNIFICATION

Lessee shall indemnify, hold harmless and defend Lessor, its agents, officials, officers, and employees against all losses, damages, claims or judgments, including payment of all attorney's fees and costs, on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Lessee's use, maintenance and occupancy of the Premises or Grounds hereunder, including use of the Premises or Grounds by Lessee's licensees, employees, agents, representatives, contractors, agents, guests, invitees or allowed assigns. Lessee shall cause any and all

agreements that Lessee enters into with any of the above parties to contain language indemnifying the Lessor as provided in this Section.

13. LAWS AND REGULATIONS

A. Compliance with Laws. In connection with its use of and activities in and about the Premises and Grounds, Lessee, at its sole expense, shall comply, and shall cause its agents, employees, contractors, representatives, guests, invitees and licensees to comply, with all applicable laws, orders and regulations of federal, state, county or municipal authorities, and with any direction of any public officer pursuant to law which shall impose any violation, order, or duty upon the Lessor or the Lessee or its licensees with respect to any part of the Premises or Grounds used by Lessee hereunder and that arise out of Lessee's particular use of the Premises or Grounds.

B. Safety. Lessee guarantees that all facilities and equipment furnished by it will conform to, and Lessee agrees to comply with and to cause its licensees to comply with, all safety regulations set forth by OSHA, New Mexico OSHB, the EPA, and other environmental pollution and toxic waste control and protection agencies, and safety guidelines that may be issued by the Motion Picture Safety Committee, and all other federal, state, county, municipal and local rules and regulations. Any and all paints and other coloring materials, lacquers and other finishes, solvents and thinners, cleaning or detergent agents, or otherwise potentially harmful, hazardous or toxic materials, liquids, substances, and other contaminants must be removed from, or caused to be removed from, the Premises and Grounds by Lessee at Lessee's expense, after use of the same has been completed. During such use, such materials shall be kept in a safe and contained manner. The Lessor shall charge to Lessee, and Lessee covenants and agrees to pay, all costs caused by, relating to, or arising from the removal and/or disposal of any and all such materials or substances discharged by Lessee or its licensees or otherwise not removed from the Premises or Grounds by Lessee and any and all fines, assessments, and penalties that may be incurred or imposed upon the Lessor, Lessee, or licensees as a result of such malfeasance by Lessee.

14. EASEMENTS

Lessor reserves the exclusive right to grant access, utility or other easements on or through the Premises. Lessor shall notify Lessee in writing prior to Lessor's grant of any easement through the Premises.

15. LESSOR ACCESS

The Lessee shall allow the Lessor and/or its agents or assigns access to the Premises for periodic inspections, maintenance of rights-of-way, maintenance and operation of parking facilities or other Lessor facilities and/or public spaces, and for such other purposes as the Lessor may have, provided that nothing herein shall be deemed a requirement to allow the Lessor to occupy any part of the Premises leased to the Lessee, nor to interfere with the Lessee's quiet enjoyment of the Premises.

16. TERMINATION

A. Termination by Lessor. Lessor may terminate this Lease with written notice to Lessee at least sixty (60) days prior to the termination date; or Lessor may terminate this Lease upon Lessee's failure to comply with any provisions contained herein. Prior to termination, Lessor shall hand-deliver or mail notice to Lessee via certified or registered mail specifying:

- (i) the breach;
- (ii) the action required to cure the breach;
- (iii) a date, not less than fifteen (15) days from the date the notice is hand delivered or mailed to Lessee, by which such breach must be cured; and
- (iv) that failure to cure such breach on or before the date specified in the notice will result in termination of the Lease.

B. Termination by Lessee. Lessee may terminate this Lease with written notice to Lessor at least sixty (60) days prior to the termination date.

17. SURRENDER OF PREMISES

Lessee shall quit and surrender the demised Premises and all equipment and personal property contained on and in the demised Premises to Lessor at the end of the term of this Lease in the same condition as at the date of the

commencement of this Lease, ordinary use and wear excepted.

18. NOTICE

Any required notice will be deemed delivered, given and received (i) when personally hand delivered, or (ii) five days after the same are deposited in the United States mail, postage prepaid, registered, addressed to the applicable Party at the address indicated below for such Party, or at such other address as may be designated by either Party in a written notice to the other Party:

To Lessor:

City Manager
City of Santa Fe
PO Box 909
200 Lincoln Ave.
Santa Fe, NM 87504-0909

To Lessee:

Claudio Ruben, Principal
Garson Studios Santa Fe LLC
PO Box 32713
Santa Fe, NM 87594

With a copy to:

City Attorney's Office
City of Santa Fe
PO Box 909
200 Lincoln Ave.
Santa Fe, NM 87504-0909

19. NO WAIVER

No waiver of a breach of any of the provisions contained in this Lease shall be construed to be a waiver of any succeeding breach of the same or any other provisions.

20. SEVERABILITY

In the event that one or more of the provisions contained in this Lease or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

21. ENTIRE AGREEMENT

This Lease constitutes the entire agreement between the Parties, represents their entire understanding, and defines all of their respective rights, title and interests as well as all of their duties, responsibilities and obligations. Any and all prior agreements and understandings between the Parties related to the Premises and Grounds, if any, are merged herein. This Lease shall not be modified or amended except by a written document signed by the Parties hereto.

22. BINDING EFFECT

This Lease shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and allowed assigns.

23. LITIGATION EXPENSE

In the event of litigation between the Parties, each Party shall be responsible for its own litigation expenses. In the event of litigation between Lessee and its licensees in which Lessor is named, Lessee shall pay any necessary costs, including reasonable attorney's fees, expenses and other costs of collection or otherwise, which Lessor shall incur in enforcing this Lease or in recovering any and all damages caused to the Premises or Grounds by Lessee, or Lessee's licensees, contractors, agents, employees or allowed assigns.

24. APPLICABLE LAW; VENUE

Lessee shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Lease, Lessee agrees that the laws of the State of New Mexico shall govern. The Parties agree that any action or suit arising from this Lease shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in

the courts of the State of New Mexico shall be brought in the First Judicial District Court of the State of New Mexico.

25. FORCE MAJEURE

Failure of the Lessor to comply with the terms and conditions hereof because of an Act of God; force majeure; labor troubles; war; fire; riot; earthquake; act of public enemies; action of governmental authorities (federal, state or local); unavailability of power, transportation, stages, production facilities or materials; or for any other reason beyond the reasonable control of the Lessor, shall not be deemed a breach of this Lease, and the Lessor shall not be liable to Lessee for any consequential damages. Except for the obligations to pay rent, license fees and additional charges, the provisions of this Paragraph shall apply equally and reciprocally to Lessee.

26. HEADINGS

The section headings contained in this Lease are for reference purposes only and shall not affect the meaning or interpretation of this Lease.

27. AMENDMENT

This Lease shall not be altered, changed or modified except by an amendment in writing executed by the Parties hereto.

28. RECORDING - SHORT FORM MEMO

This Lease shall not be recorded in its entirety. If desired by either party, both parties shall execute in recordable form a short form memorandum of this Lease which may be placed of record.

29. REPRESENTATION ON AUTHORITY OF SIGNATORY

The signatory for the Lessee represents and warrants that he or she is duly authorized and has the legal capacity to execute and deliver this Lease. The Lessor represents and warrants that the execution and delivery of the Lease and the performance of the Lessee's obligations hereunder have been duly authorized and that the Lease is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

30. ATTACHMENTS

All exhibits are fully incorporated herein and made a part of this Lease.

31. COUNTERPARTS

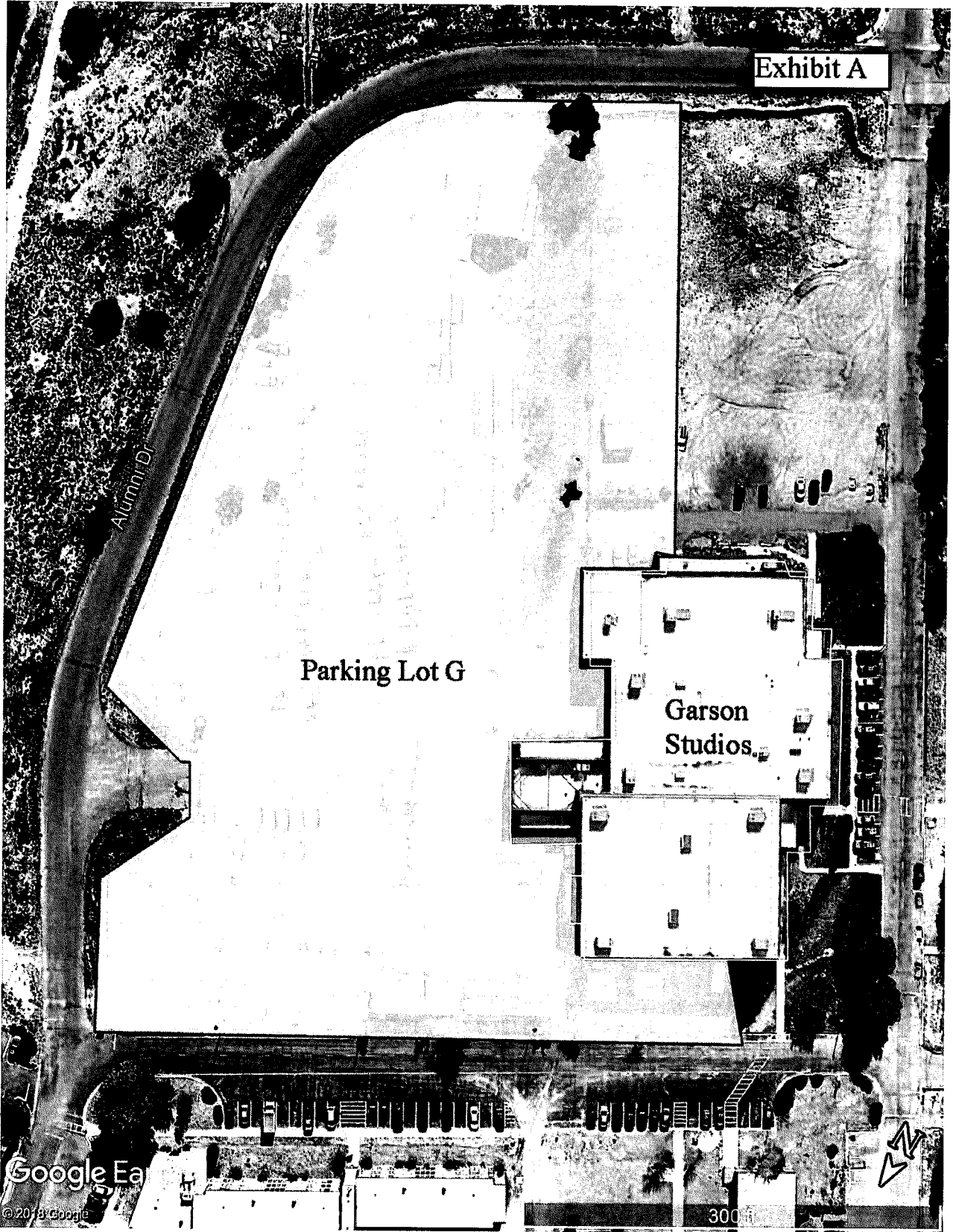
This Lease may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

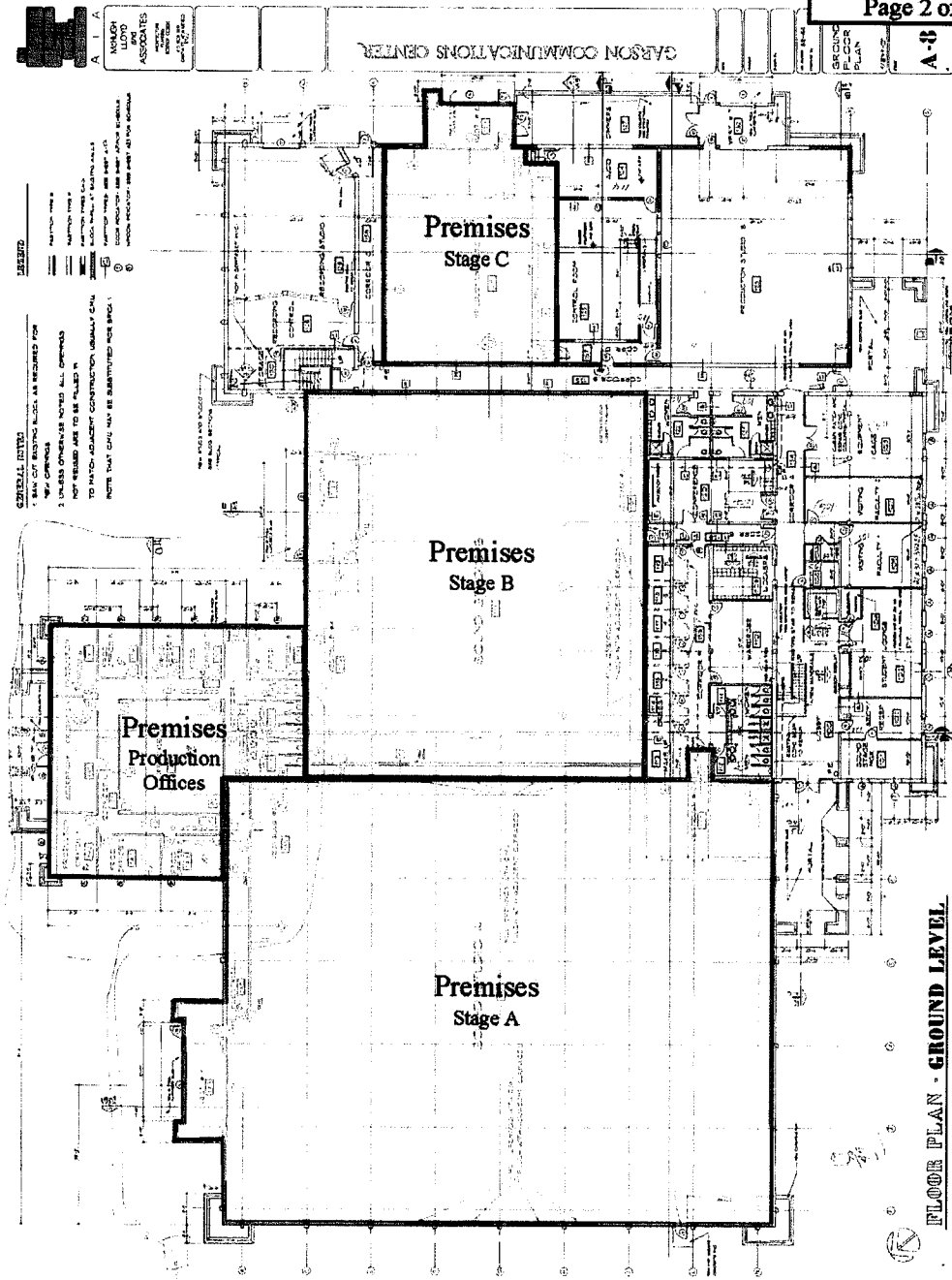
32. LESSOR APPROVAL

Any Lessor approval required herein shall be done by the City Manager or his or her designate.

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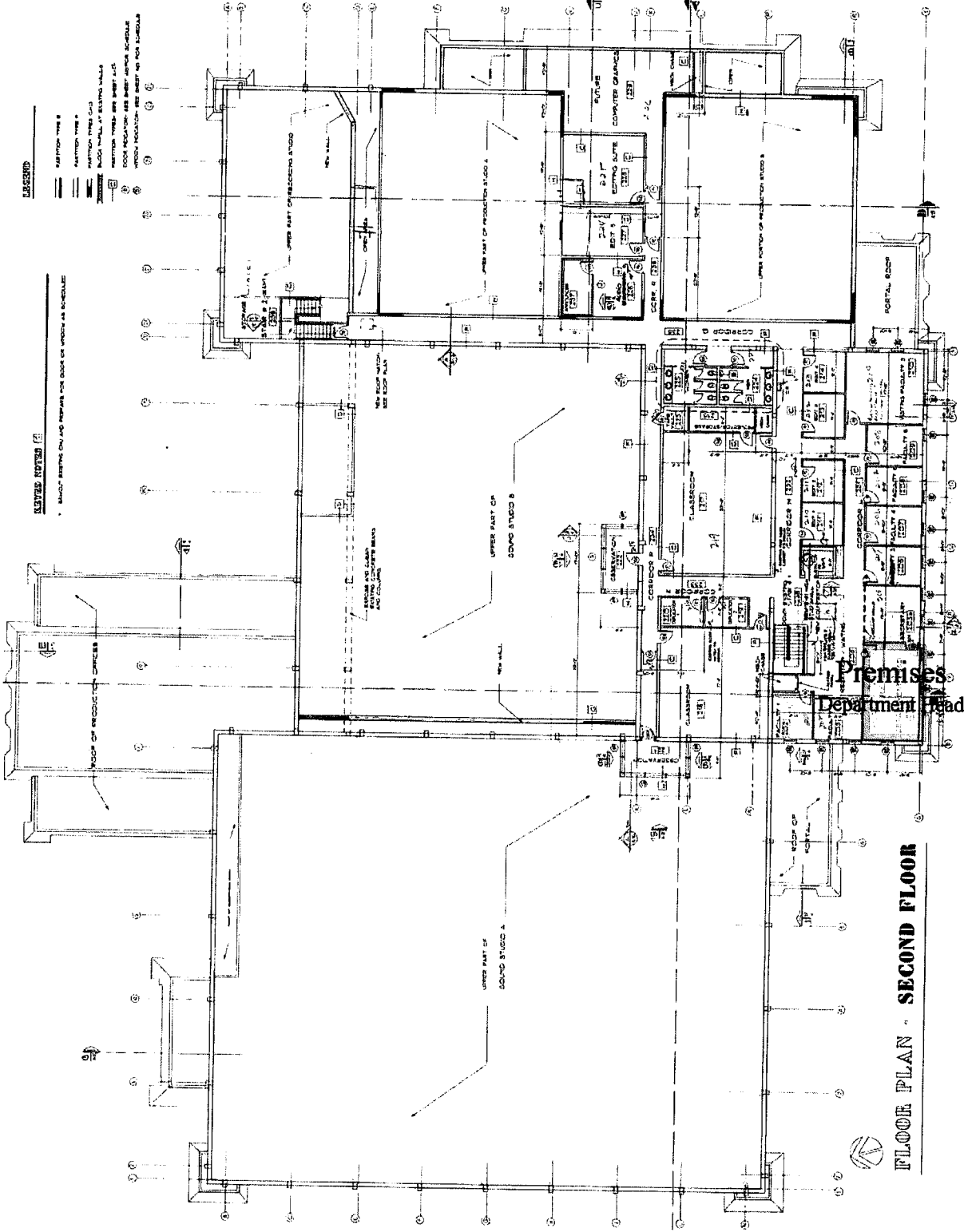




MAN/CI/LOU/CI ASSOCIATES
 ARCHITECTS
 1000 W. WASHINGTON
 SUITE 1000
 CHICAGO, ILL. 60601

GARSON COMMUNICATIONS CENTER

Exhibit A
 Page 3 of 3



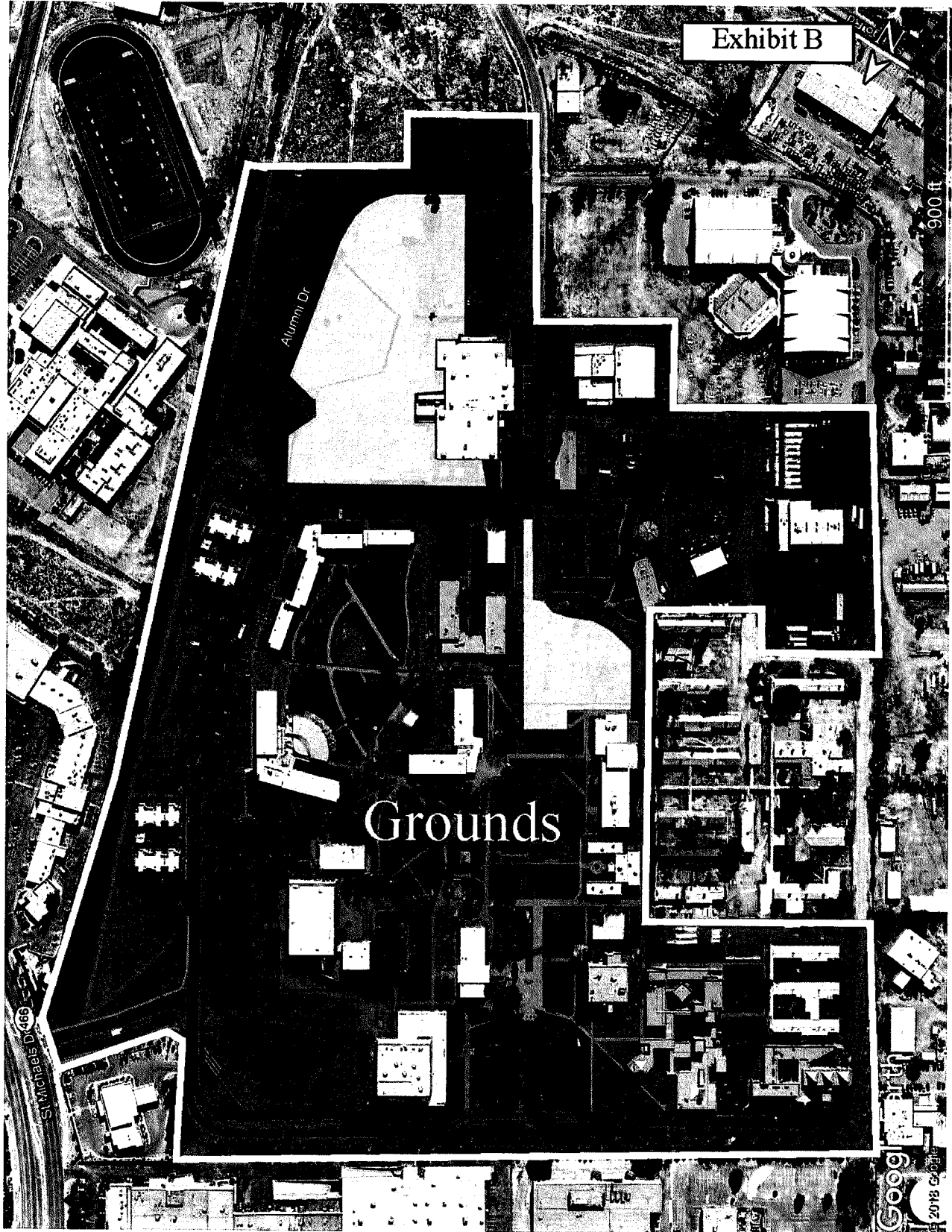


EXHIBIT C
LICENSE AGREEMENT
FOR FILM AND TELEVISION PRODUCTION AT
1600 ST. MICHAEL'S DRIVE, SANTA FE, NM

This LICENSE AGREEMENT ("**License**") is made this _____ day of _____, 20__ by and between GARSON STUDIOS SANTA FE, LLC, a New Mexico limited liability company ("**Licensor**"), and _____ ("**Licensee**"), (collectively, the "**Parties**" and each individually a "**Party**").

WHEREAS: Licensor has a lease ("**Lease**") from the City of Santa Fe ("**Lessor**") for premises and grounds located at 1600 St. Michael's Drive, Santa Fe, New Mexico until _____, attached as Exhibit D; and

WHEREAS: Licensee is a film production company which wishes to license the use of some or all of the Licensor's premises and grounds for film production;

WITNESSETH:

In consideration of Licensee's promises herein, Licensor hereby gives Licensee an exclusive License, revocable and terminable as hereinafter provided, to enter on, use and occupy the Lessor-owned property leased to Licensor during the dates and times specified herein for activities associated with the production of a film or television series currently titled "_____

_____ (the "**Film**"), as provided herein.

All approvals by the Lessor required herein shall be done by the City Manager of the City of Santa Fe or his or her designee.

1. LICENSE PREMISES AND GROUNDS

Licensor allows Licensee to use and occupy specific portions of buildings and land at the Midtown campus (formerly the Santa Fe University of Art and Design) located at 1600 St. Michael's Drive, Santa Fe, New Mexico as specified in **Exhibit E** attached hereto and made a part hereof (the "**License Premises**"), and allows Licensee non-exclusive ingress and egress to the License Premises through Lessor-owned private property (the "**Grounds**") on Midtown campus as specified in **Exhibit F**. This License includes the right of Licensee to use certain items of Lessor-owned personal property located at the License Premises and Grounds subject to an additional fee and prior consent of the Lessor. Licensee must obtain approval in writing by Licensor before using Lessor personal property, with the exception of typical office furniture.

2. TERM

A. This License shall commence at _____ and shall continue for a period of _____ days, or until otherwise terminated as provided herein.

B. Upon thirty (30) days prior written notice to Licensor, Licensee may extend the Term and add additional months to the Term of this License, subject to Licensor having authority under a lease agreement with the Lessor to license such use. Licensee shall pay License Fees and Additional Charges for any additional days added to the Term as specified in **Exhibit G** and **Exhibit G-1** respectively.

3. CONDITIONS OF USE

Licensee's use and occupation of the License Premises shall at all times be in compliance with the provisions of this License including without limitation the following conditions of use:

A. **Allowed use.** Licensee is allowed to use and occupy the License Premises for filming, production office, parking, and storage uses related to the Film. No other use of the License Premises is allowed without the prior written consent of Licensor.

(i) Production of obscene material is expressly understood to be prohibited and not an Allowed use.

(ii) Failure of the Licensee to restrict the use of the License Premises as provided herein shall be deemed a substantial breach of this License and shall constitute grounds for immediate termination by Licensor.

B. **Hours of Use.** Licensee's use of the License Premises and Grounds is allowed twenty-four (24) hours per day, seven (7) days a week during the Term.

C. Utilities. Use of the Lessor-procured electric power service, natural gas, water service and sewer service is included in this License, but subject to charges. Electrical generators shall not be used except as back-up power sources. Telephone and internet services are the responsibility of the Licensee.

D. Alterations and Repairs. Licensee shall make no alterations to the License Premises without the Lessor's and Licensor's prior written approval. Licensee shall use reasonable efforts to preserve and protect the License Premises and Grounds and any Lessor-owned personal property supplied to Licensee by Licensor. If Licensee, its agents, employees, guests or invitees directly damage or lose any of Lessor's or Licensor's real or personal property, Licensee shall compensate the owner of such property for such damage or loss in the amount of the actual, reasonable fair market value cost of any such repair or replacement. Notwithstanding anything to the contrary in this License, the Licensee shall not be responsible for repairs required due to normal wear and tear of the License Premises and Grounds and the maintenance of floors, walls, windows, ceilings, roof systems, and electrical, plumbing, and heating and air-conditioning systems.

E. Weight Loads. Licensee shall not allow any vehicles or heavy equipment in the licensed stages on the License Premises, without the prior written authorization of Licensor.

F. Security Guards and Fire Protection Personnel. Licensee shall bear the full cost of any security guards and/or fire protection personnel which Licensor or Licensee may reasonably deem necessary for the protection of their respective property and the License Premises.

G. Fires, Firearms, Explosives, and Hazardous Wastes. Licensee shall not conduct any dangerous or illegal activities at the License Premises and Grounds or keep any toxic, hazardous, dangerous or offensive materials, substances or articles in or about the License Premises or Grounds which will in any way impair or invalidate, or increase the premium costs of insurance policies carried by Licensor.

Licensee shall not light fires or discharge firearms, smoke effects, or explosives on or about the License Premises and Grounds without the prior written consent of Licensor, and only after having first obtained all necessary permits from any and all appropriate governmental authorities. Licensee shall in all cases employ a licensed operator to discharge firearms or explosives, and Licensor reserves the right to request proof from Licensee that said employees are licensed and registered to conduct such activities. Licensee shall secure, at the end of each production day, all firearms and explosives brought on the License Premises and Grounds by Licensee.

Licensee hereby specifically indemnifies and agrees to hold Licensor, the Lessor and the Lessor's employees, officers, managers, agents and assignees harmless from and against any and all liability, causes of action, damages, costs or expenses, including without limitation reasonable outside attorney's fees, directly arising out of or in any way connected with the use or possession by Licensee of firearms, fires, smoke effects, noxious gases and explosives at the License Premises and Grounds.

Licensee shall have the sole responsibility for the daily removal and legally proper disposal of all hazardous wastes from the License Premises. Licensee shall not spray or otherwise utilize any toxic or hazardous material inside the License Premises or Grounds without prior written consent from Licensor. Any such approved use of toxic or hazardous material shall comply with all applicable legal requirements. Under no circumstance shall Licensee alter in any way, or use for any production purpose, any fire hose, sprinkler system or equipment supplying water to the hoses or sprinkler system.

H. Security. Licensor reserves the right, in its reasonable but sole discretion, to refuse admittance to the License Premises and Grounds to any employee or other person associated with Licensee who behaves in a negligent or dangerous manner that could result in harm to the License Premises and Grounds, other City buildings, or people.

I. Screen Credit. Licensee shall use good faith efforts to include "The City of Santa Fe, New Mexico" and "Garson Studios" in the credits at the end of the Film.

J. Photographic Rights. Licensor hereby acknowledges that neither Licensor, nor any other party has any interest in Licensee's still photography, film or other recording on or of the License Premises, nor any right of action against Licensee or any other party arising out of any use of said photography. Licensor hereby grants to Licensee, its successors, licensees and assigns the irrevocable and perpetual right, worldwide, in any manner and in any and all media to use and exploit the films, photographs, and recordings made of or on the License Premises in connection with the Film in such manner and to such extent as Licensee desires in its sole discretion. Licensee and its licensees, assigns and successors shall be the sole and exclusive owner of all rights of whatever nature, including all copyrights, in and to all films, photographs and recordings made on or of the License Premises, in perpetuity, throughout the universe. As between Licensor and Licensee, Licensee shall be the sole and exclusive owner,

throughout the universe in perpetuity, of all rights of whatever nature, including without limitation all copyrights, in all films, photographs and recordings made of or on the License Premises in connection with the Film and including, without limitation, the exclusive right to assign and/or license Licensee's rights without restriction or impairment of any kind.

In the event of a breach of this License by Licensee, Licensor shall not have the right to enjoin or otherwise restrain the production, marketing, or exploitation of the Film.

K. Confidentiality. Licensor shall not use any name, logo, Film title, trademark or other proprietary mark of Licensee or of its licensees or assigns in any manner. Licensor agrees to not officially publicize, advertise or promote the appearance of the License Premises in the Film, without the prior written consent of Licensee. Licensor's confidentiality obligations hereunder shall apply to any and all media, including, without limitation, any social networking site; microblogging service; user-generated or user-uploaded content website; online forum, discussion thread or comment section; personal website or blog; user modified website; or any other website, service, platform, application or other form or method of communication, whether now known or hereafter devised (e.g., Facebook and Twitter). Licensee acknowledges that the owner and lessor of the License Premises and Grounds is the City of Santa Fe, a municipal corporation and political subdivision of the State of New Mexico and, as such, is required to comply with the State of New Mexico Inspection of Public Records Act (IPRA) and, to the extent that City possesses written or electronic information about the Film, that City may be required by law to release that information pursuant to an IPRA information request.

L. Failure. Failure of Licensee to comply with conditions of use of the License Premises and Grounds as provided herein shall be deemed a breach of this License and shall constitute grounds for termination of this License by the Licensor pursuant to Section 7 of this License.

M. Stage Manager. The Licensee shall be solely responsible to contract with and assume all costs for a Stage Manager approved in advance in writing by the Licensor. The Stage Manager shall comply with all legal, regulatory and contractual requirements for use of the License Premises and Grounds and shall seek and obtain prior written approval by the Lessor and the Licensor for the Licensee to use certain personal property in the production of the Film. The Stage Manager shall regulate Licensees' ingress and egress to the License Premises over the Grounds.

N. Condition of License Premises upon Surrender. Upon expiration or termination of this License, Licensee shall, at its expense, cause the striking and removal of all sets, materials and equipment placed upon the License Premises by Licensee, and shall clean such premises, steam clean office carpet, and remove all residue and articles of rubbish so as to leave the License Premises in substantially the same condition as when Licensee took possession thereof, reasonable wear and tear excepted. In the event Licensee lays materials on or paints any portion of the stage floor, wall, or cyclorama, or makes any alterations as described herein with Licensor's approval, Licensee shall either restore or compensate Licensor for restoration of that portion of the premises. Further, to the extent deemed necessary by Licensor due to the condition of the premises, the cost of a professional cleaning service will be charged to the Licensee's security deposit, provided that Licensor shall provide Licensee with three (3) days prior written notice via email and an opportunity to clean the License Premises prior to Licensor charging for such cleaning.

Should Licensee use the rigging points in the ceilings of either Stage A or B to build a grid system, once the grid is removed during wrap, Licensee will, at its own expense, test all the rigging points it used to make sure they are safe and in good condition for future use. Licensee is required to provide the Licensor and Stage Manager with written confirmation of the dates on which the rigging points were checked and by whom.

Pursuant to its obligation under the License, Licensee specifically agrees to repaint the stage floors of any stage it uses (Garson Studios Stage A, Stage B and/or Stage C) in a reasonable and professional manner under the direction of the Stage Manager as follows: Dunn-Edwards Rustoleum matte water-based urethane, "Walrus" color; for Stage A, minimum 25 gallons; for Stage B, minimum 12 gallons; for Stage C, minimum 7 gallons. Amounts may be doubled if a second coat is required at the discretion of the Licensor or Stage Manager. For the Green Screen, the use of Mann Brothers paint (or equivalent), is required, in the color, Digital Green – Vara Bond, Acrylic Latex Flat. Fire safety lanes on each stage shall be sectioned off with caution tape. Any caution tape which is torn and damaged during production shall immediately be replaced.

O. Failure to Comply. Failure of Licensee to comply with conditions of use of the License Premises and Grounds as provided herein shall be deemed a material breach of this License.

No Rights Beyond Lease. Licensor shall in no event extend the rights of the Licensee beyond those held by

Licensors under the terms of Licensor's lease agreement with the Lessor.

4. CHARGES

A. **License Fees.** Licensee shall pay Licensor the fees specified in **Exhibit G**, attached hereto and made a part hereof (the "**License Fees**"). License Fees do not incorporate New Mexico Gross Receipts Taxes.

B. **Additional Charges.**

(i) **Additional Stages, Equipment Lot Services and Facilities.** If at any time during the Term hereof Licensee shall require any stages, lot service, equipment or facilities of the License Premises or Grounds in addition to those expressly referred to in this License, Licensor agrees to furnish the same, subject to the reasonable availability thereof, but Licensee shall have no right to use any additional stages, equipment, lot services or facilities without the payment of additional fees and/or charges thereof. The Licensee shall pay the rates for all stages, lot services, equipment and facilities not expressly referred to in this License and will be charged in accordance with the then-current studio rate schedule. The terms and conditions of this License shall apply to any additional stages, equipment, lot services and facilities furnished by Licensor at Licensee's request.

(ii) **Utilities.** Utility services including water, gas, and electricity required by Licensee in connection with this License shall be furnished as available and charged to the Licensee as per **Exhibit C-1** (stage and mill power); any water usage that exceeds regular and reasonable use may entail additional fees and requires approval from Licensor; however, neither the Licensor nor the Lessor shall be liable for failure or interruptions resulting from any cause including, but not limited to, generator failure, failure or breakdown of public utility services and equipment, acts of God, force majeure, or from good faith acts or decisions of the Licensor or the Lessor, but excluding the willful or intentional misconduct or gross negligence of Licensor or the Lessor.

(iii) **Rate Increases.** Any and all labor, material and service rate increases incurred by Licensor for services provided to Licensee during the term of this Agreement shall be paid by Licensee. Licensor shall notify of all rate increases before commencing such services to Licensee.

(iv) **Other.** All incidentals and additional costs as outlined in **Exhibit G-1**.

Licensor shall have no obligation to allow access to the License Premises or Grounds until and unless Licensee has paid to Licensor all amounts due upon execution of this License and has provided to Licensor the certificates of insurance required below. The License is granted in consideration for the sums specified in **Exhibit G** and payment of applicable additional costs in **Exhibit G-1**.

C. **Payee.** Licensee shall remit License Fees and Additional Charges on the dates specified in **Exhibit G**, payable to **Garson Studios Santa Fe, LLC**. Licensee shall remit all License Fees along with applicable New Mexico Gross Receipts Tax to:

Attn: Claudio Ruben, Principal
Garson Studios Santa Fe, LLC
P.O. Box 32173
Santa Fe, NM 87594

5. SECURITY DEPOSIT.

Upon execution of this License, Licensee shall pay to and payable to the Licensor, a security deposit in the amount stated on **Exhibit G** attached hereto, which deposit shall bear no interest. Should Licensee request additional facilities or equipment from the Licensor, the Licensor may require an increase in the amount of the security deposit before such additional facilities or equipment will be provided. Licensor may use from Licensee's security deposit such amounts as are reasonably necessary to remedy Licensee's default in the payment of the License Fee and other charges, or any additional charges, to repair verifiable damages, or to clean the License Premises upon their surrender, restoring them to their condition upon delivery, except (i) reasonable wear and tear and (ii) force majeure events described below, caused by Licensee, its agents, employees or invitees. If used towards unpaid License Fee, rental charges, additional charges or damages, Licensee agrees to reinstate said total security deposit upon receipt of twenty-four (24) hours written notice from the Licensor. The balance of security deposit, if any, will be returned to Licensee upon Licensee's full payment of all monetary amounts due hereunder and within thirty (30) business days of Licensee vacating the License Premises, provided such amounts have been paid; provided, however, that such period may be extended for the period of time necessary to resolve bona fide issues related to the settling of Licensee's account. Licensor will promptly inform Licensee in writing of the nature of such issues, and the security deposit shall be returned promptly following the resolution of such issues, if any.

6. PAYMENTS.

The License Fee shall be paid by Licensee according to the terms in Exhibit G. Licensor will submit invoices to Licensee. These invoices will include without limitation any Additional Charges and New Mexico Gross Receipts Tax, and are due and payable within fifteen (15) days after the date of the invoice. All challenges or protests with regard to the accuracy or legitimacy of any and all charges must be received by Licensor in writing within ten (10) days from the date Licensor gives notice of such charges. All protests and challenges not received within ten (10) day period shall be deemed to be waived, and Licensee shall be deemed to have approved the legitimacy and accuracy of said charges. A late charge of one percent (1%) per month shall accrue on all amounts not paid within the fifteen (15) day period.

7. TERMINATION

A. Termination by Licensor. This license is revocable at will by Licensor, and Licensee agrees in that event to: (a) peaceably and promptly surrender the License Premises on the termination date specified in the written notice, (b) remove all Licensee's personal property from the License Premises and Grounds, and (c) restore the License Premises to its original state at the time of Licensee's entry thereon.

B. Termination by Licensee. Licensee may terminate this License at any time upon sixty (60) days written notice to Licensor.

C. Termination or Expiration of Lease. Upon termination or expiration of the underlying lease between the Lessor and Licensor, the Licensee shall attorn to the Lessor as licensor.

D. No Other Refunds. Upon termination of this License by either Party, there shall be no refund of the License Fees or any portions thereof.

8. NO INTEREST CREATED

Licensee acknowledges that no interest or estate of any kind whatsoever in the License Premises and Grounds is conveyed by this License or by occupancy or use of the Licensed Premises and Grounds pursuant to the License. This License shall not be assigned or sub-licensed by Licensee. Notwithstanding the provisions of this Section, Licensee shall have the unrestricted right to assign any or all rights in and to the Film.

9. INSURANCE, INDEMNIFICATION & WAIVER OF SUBROGATION

A. Insurance. Licensee, and each of Licensee's contractors and subcontractors who physically access the License Premises, shall, at their sole cost and expense, procure and continue to maintain in force during the Term of this License the minimum insurance coverage with limits indicated below:

(i) Workers' Compensation Insurance (at statutory limits); and

(ii) Employer's Liability Insurance with minimum limits of not less than One Million Dollars and No Cents (\$1,000,000.00) per accident or disease; and

(iii) Commercial General Liability Insurance for claims against bodily injury (including death), personal and advertising injury, and property damage (including completed operations and contractual liability), on an occurrence basis in an amount not less than Two Million Dollars and No Cents (\$2,000,000.00) combined single limit and \$4,000,000 in the aggregate; and

(iv) "All-risk" property insurance insuring the License Premises and its appurtenant personal property including all equipment owned by the City of Santa Fe and made available to Licensee in the course of Film production, at full replacement costs. City of Santa Fe and Garson Studios Santa Fe, LLC shall be added as a loss payee on the "all-risk" policy.

All policies shall be written by an insurer with an A. M. Best rating of not less than A- (Excellent), Financial Size Category VII, and must be authorized to do business within the State of New Mexico. The general liability insurance coverage shall be endorsed to name Garson Studios Santa Fe, LLC, the City of Santa Fe, the City's agents, employees, volunteers, officers, and elected and appointed officials (collectively the "City's Releasees") as additional insureds. Licensee shall provide written documentation of all required insurance coverages upon execution of this License and otherwise within ten (10) days of the City's written request for such documentation. All policies shall provide that Garson Studios Santa Fe, LLC and the City of Santa Fe shall be given no less than thirty (30) days prior written notice of any cancellation except as a result of non-payment, for which not less than ten (10) days prior written notice shall be given.

No self-insurance shall be allowed at any time without the prior written consent of the Licensor, which may be withheld for any or no reason.

B. Indemnification. Licensee agrees to indemnify, defend and hold Licensor, the City of Santa Fe, and the City's Releasees harmless from and against any third-party claim of injury, loss, damage or liability costs or expenses (including without limitation reasonable outside attorneys' fees and court costs) to the extent arising out of Licensee's breach of this License. Circumstances under which the City will not be held liable include, but are not limited to:

(i) any work or act done in, on or about the License Premises, or any part thereof at the direction of Licensee, its agents, contractors, subcontractors, servants, employees, licensees or invitees on behalf of Licensee; and

(ii) any negligence or other willful misconduct on the part of Licensee or any of its agents, contractors, subcontractors, servants, employees, or invitees; and

(iii) any accident, injury or damage directly caused by or attributable to Licensee or its agents, contractors, subcontractors, servants, employees, or invitees to any person or property occurring at the License Premises and Grounds or any part thereof, except to the extent caused by the negligence or willful misconduct of the City, its employees, agents, volunteers, officers or officials; and

(iv) any failure on the part of Licensee to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in this License on its part to be performed or complied with; and

(v) Any failure of Licensee to comply with applicable local, state or federal laws.

C. Waiver of Subrogation.

(i) Mutual Waiver. Licensee and Licensor hereby grant to each other a mutual waiver of any right to subrogation which any insurer of one Party may acquire against the other Party by virtue of the payment of any loss under such insurance. Licensee and Licensor agree to obtain any endorsements that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether a Party has received a waiver of subrogation endorsement from the insurer.

(ii) Waiver to City. Licensee hereby grants to the City a waiver of any right to subrogation which any insurer of Licensee may acquire against the City by virtue of the payment of any loss under such insurance. Licensee agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

10. NOTICE

All notices and demands in regards to this License must be given by first-class certified or registered mail, return receipt requested, postage prepaid, or by a nationally recognized overnight courier, courier fee prepaid. All such properly sent notices and demands shall be effective when received, rejected or refused by the recipient. Notices will be addressed to the Parties as follows:

To Licensor:

LLC

P.O. Box 32173
Santa Fe, NM 87594
Attn: Claudio Ruben

To Licensee: Garson Studios Santa Fe,

With a copy to the Lessor:

City of Santa Fe
PO Box 909
200 Lincoln Avenue
Santa Fe, New Mexico 87504
Attn: City Manager

Either Party may change its notice addresses in this Section upon three (3) days written notice to the other Party. Any copy of a notice or demand to a Party's legal counsel does not constitute legal notice to that Party.

11. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this License is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision of this License modifies or waives any provision of the New Mexico Tort Claims Act.

12. NO REPRESENTATIONS REGARDING TAX CREDITS

The Licensee expressly understands and agrees that Licensor and the Lessor make no warranty, covenant, or any other representation that this License will result in or entitle the Licensee to any tax credit, including but not limited to Film Production Tax Credits.

13. LESSOR AS THIRD-PARTY BENEFICIARY

By entering into this License, the Parties intend to create for the Lessor the right, title, and interest in this License for the benefit of the Lessor. No other person shall claim any right, title, or interest under this License or seek to enforce this License as a third-party beneficiary of this License.

14. LAWS AND REGULATIONS

A. Municipal Code. Licensee's use of the License Premises and Grounds shall at all times be in compliance with the City's Municipal Code, including but not limited to §10-2 SFCC 1987, the City's Noise Ordinance.

B. Compliance with Laws. In connection with its use of and activities in and about the License Premises and Grounds and the Lessor property, Licensee, at its sole expense, shall comply, and shall cause its agents, employees, contractors, representatives, guests and invitees to comply, with all applicable laws, orders and regulations of federal, state, county or municipal authorities, and with any direction of any public officer pursuant to law which shall impose any violation, order, or duty upon the Licensor or Licensee with respect to any part of the Lessor premises used by Licensee hereunder and that arise out of Licensee's particular use of the License Premises and Grounds.

C. Safety. Licensee guarantees that all facilities and equipment furnished by it will conform to, and Licensee agrees to comply with, all safety regulations set forth by OSHA, New Mexico OSHB, the EPA, and other environmental pollution and toxic waste control and protection agencies, and safety guidelines that may be issued by the Motion Picture Safety Committee, and all other federal, state, county, municipal and local rules and regulations. Any and all paints and other coloring materials, lacquers and other finishes, solvents and thinners, cleaning or detergent agents, or otherwise potentially harmful, hazardous or toxic materials, liquids, substances, and other contaminants must be removed from the License Premises and Grounds by Licensee at Licensee's expense after use of the same has been completed. During such use, such materials shall be kept in a safe and contained manner. Licensor shall charge to Licensee, and Licensee covenants and agrees to pay, all costs caused by, relating to, or arising from the removal and/or disposal of any and all such materials or substances discharged by Licensee or otherwise not removed from the License Premises by Licensee and any and all fines, assessments, and penalties that may be incurred or imposed upon Licensor, the Lessor, or Licensee as a result of such malfeasance by Licensee.

15. HEADINGS, INTERPRETATION

The section headings contained in this License are for reference purposes only and shall not affect the meaning or interpretation of this License.

16. ENTIRE AGREEMENT

This License incorporates all the agreements and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements and understandings have been merged into this License. This License expresses the entire agreement and understanding between the parties with respect to said license. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this License.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

Licensee shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this License, the Licensee agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court of the State of New Mexico.

18. FORCE MAJEURE

Failure of Licensor or Lessor to comply with the terms and conditions hereof because of an Act of God, force majeure, labor troubles, war, fire, riot, earthquake, act of public enemies, action of governmental authorities (federal, state or local), unavailability of power, transportation, stages, production facilities or materials, or for any other reason beyond the reasonable control of Licensor or Lessor, shall not be deemed a breach of this License, and neither Licensor nor Lessor shall be liable to Licensee for any consequential damages. Except for the obligations to pay license fees and additional charges, the provisions of this Paragraph shall apply equally and reciprocally to Licensee.

19. REPRESENTATION ON AUTHORITY OF SIGNATORY

The signatory for the Licensee represents and warrants that he or she is duly authorized and has the legal capacity to execute and deliver this License. The Licensee represents and warrants that the execution and delivery of the License and the performance of the Licensee's obligations hereunder have been duly authorized and that the License is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

20. ATTACHMENTS

All exhibits are fully incorporated herein and made a part of this License.

21. COUNTERPARTS

This License may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals as of this _____ day of _____, 20_____.

LICENSOR:
GARSON STUDIOS SANTA FE, LLC

LICENSEE:

CLAUDIO RUBEN, PRINCIPAL

AUTHORIZED OFFICER



City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: GARSON STUDIOS SANTA FE LLC
DBA: GARSON STUDIOS SANTA FE
LLC

Business Location: PO BOX 32713
SANTA FE, NM 87594

Owner: CLAUDIO RUBEN

License Number: 222119

Issued Date: February 02, 2021

Expiration Date: February 02, 2022

CRS Number: 03-162475-00-8

License Type: Business License - Renewable

Classification: Out of Jurisdiction Business License

Fees Paid: \$10.00

GARSON STUDIOS SANTA FE LLC
PO BOX 32713
SANTA FE, NM 87594

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT.
APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY
OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO
COMMENCEMENT OF ANY CONSTRUCTION OR THE
INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERABLE TO
OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE



City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: GARSON STUDIOS SANTA FE LLC
DBA: GARSON STUDIOS SANTA FE
LLC

Business Location: PO BOX 32713
SANTA FE, NM 87594

Owner: CLAUDIO RUSSEL

License Number: 222119

Issued Date: February 02, 2021

Expiration Date: February 02, 2022

CRS Number: 03-162475-00-8

License Type: Business License - Renewable

Classification: Out of Jurisdiction Business License

Fees Paid: \$10.00

GARSON STUDIOS SANTA FE LLC
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TO BE POSTED IN A CONSPICUOUS PLACE

11. DISCUSSION/ACTION ITEMS

e. CONSIDERATION OF RESOLUTION NO. 2021-_____. (Councilor Cassutt-Sanchez, C Villarreal, Councilor Abeyta, Councilor Rivera, and Mayor Webber)

A Resolution Supporting Legislation at the New Mexico Legislature Adopting a Paid Sick Leave Act that Allows Employees to Accrue and Use Paid Sick Leave. (Jennifer Faubion, Council Liaison, jrfaubion@santafenm.gov, 955-6033; Jesse Guillen, Legislative Liaison: jbg Guillen, Legislative Liaison: jbg Guillen@santafenm.gov 955-6518)

COMMITTEE REVIEW:

Governing Body: 02/10/21

Name: Stefanie Beninato

Comment - 02/10/2021 06:31 AM: (For)

I think that people who are healthy and work every day should not lose this benefit. However, I would not want to see people coming to work because they did wanted to accrue a large nest egg on termination or retirement from a public job and infect their co workers.

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-__

INTRODUCED BY:

Councilor Jamie Cassutt-Sanchez

Councilor Renee Villarreal

Councilor Roman “Tiger” Abeyta

Councilor Chris Rivera

Mayor Alan Webber

A RESOLUTION

SUPPORTING A PAID SICK LEAVE ACT THAT ALLOWS EMPLOYEES TO ACCRUE AND USE PAID SICK LEAVE.

WHEREAS, according to a 2016 study conducted by New Mexico Voices for Children, New Mexico has the highest percentage of workers without paid sick leave to care for themselves or their family of any state in the nation; and

WHEREAS, according to a 2016 County Business Patterns report from the U.S. Census Bureau, twenty-two percent of New Mexico’s residents are low income and may be less willing to take unpaid leave, even when sick; and

WHEREAS, most of Santa Fe’s businesses are characterized as small businesses with around seventy-nine percent operating with 10 people or fewer, according to the 2016 County Business Patterns report; and

WHEREAS, the same report found that over ninety-eight percent of small business have under 100 employees but, due to perceived expense, small businesses are less likely to provide employees with sick leave; and

1 **WHEREAS**, according to the 2010 U.S. Census, nearly one third of jobs in the Santa Fe
2 area are in the retail, hospitality, and food industries, which are even less likely to provide sick
3 leave, according to New Mexico Voices for Children; and

4 **WHEREAS**, a 2019 study released by New Mexico Voices for Children to study the
5 impact of mandated sick leave on small businesses, found that the administrative cost of providing
6 56 hours of annual sick leave for all employees would vary based on the size of the business and
7 the wages of the employees; and

8 **WHEREAS**, for employers with five low-wage (\$8.95/hour) employees, the cost would
9 be \$2,500 annually; and

10 **WHEREAS**, for employers with 20 employees earning \$11.50/hour, the cost would be
11 \$12,800 annually; and

12 **WHEREAS**, for employers with 100 employees earning \$15.00/hour, the cost would be
13 \$84,000 annually; and

14 **WHEREAS**, the costs associated with providing 56 hours of paid sick leave to employees
15 are not insurmountable, and in the long run would benefit the employer in the form of workforce
16 stability, increased productivity, illness prevention, and lower health care costs; and

17 **WHEREAS**, according to a 2020 study conducted by Project Hope, during the COVID-
18 19 pandemic, two weeks of sick leave can lead to decreases in employee positivity rates and time
19 absent from work; and

20 **WHEREAS**, several bills introduced in the Legislature would require employers to offer,
21 and allow employees to accrue and use, paid sick leave for the employees' own illness or injury,
22 the care of ill family members, the closure of the employees' place of employment due to a public
23 health emergency, or for services related to domestic abuse, sexual assault, or stalking.

24 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
25 **CITY OF SANTA FE** that it urges the New Mexico Legislature to adopt a paid sick leave act that

1 would require employers to offer and allow employees to accrue and use paid sick leave.

2 **BE IT FURTHER RESOLVED** that the Clerk’s office transmit a copy of this Resolution
3 to the Santa Fe Legislative Delegation, the leadership of the House and Senate, the Governor of
4 New Mexico, and the City’s lobbyist.

5 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2021.

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ALAN WEBBER, MAYOR

10 ATTEST:

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13 KRISTINE MIHELICIC, CITY CLERK

14 APPROVED AS TO FORM:

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17 ERIN K. McSHERRY, CITY ATTORNEY

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Legislation/2021/Resolutions/Paid Sick Leave Support

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-__

INTRODUCED BY:

Councilor Jamie Cassutt-Sanchez

Councilor Renee Villarreal

Councilor Roman “Tiger” Abeyta

Councilor Chris Rivera

Mayor Alan Webber

A RESOLUTION

SUPPORTING A PAID SICK LEAVE ACT THAT ALLOWS EMPLOYEES TO ACCRUE AND USE PAID SICK LEAVE.

WHEREAS, according to a 2016 study conducted by New Mexico Voices for Children, New Mexico has the highest percentage of workers without paid sick leave to care for themselves or their family of any state in the nation; and

WHEREAS, according to a 2016 County Business Patterns report from the U.S. Census Bureau, twenty-two percent of New Mexico’s residents are low income and may be less willing to take unpaid leave, even when sick; and

WHEREAS, most of Santa Fe’s businesses are characterized as small businesses with around seventy-nine percent operating with 10 people or fewer, according to the 2016 County Business Patterns report; and

WHEREAS, the same report found that over ninety-eight percent of small business have under 100 employees but, due to perceived expense, small businesses are less likely to provide employees with sick leave; and

1 **WHEREAS**, according to the 2010 U.S. Census, nearly one third of jobs in the Santa Fe
2 area are in the retail, hospitality, and food industries, which are even less likely to provide sick
3 leave, according to New Mexico Voices for Children; and

4 **WHEREAS**, a 2019 study released by New Mexico Voices for Children to study the
5 impact of mandated sick leave on small businesses, found that the administrative cost of providing
6 56 hours of annual sick leave for all employees would vary based on the size of the business and
7 the wages of the employees; and

8 **WHEREAS**, for employers with five low-wage (\$8.95/hour) employees, the cost would
9 be \$2,500 annually; and

10 **WHEREAS**, for employers with 20 employees earning \$11.50/hour, the cost would be
11 \$12,800 annually; and

12 **WHEREAS**, for employers with 100 employees earning \$15.00/hour, the cost would be
13 \$84,000 annually; and

14 **WHEREAS**, the costs associated with providing 56 hours of paid sick leave to employees
15 are not insurmountable, and in the long run would benefit the employer in the form of workforce
16 stability, increased productivity, illness prevention, and lower health care costs; and

17 **WHEREAS**, according to a 2020 study conducted by Project Hope, during the COVID-
18 19 pandemic, two weeks of sick leave can lead to decreases in employee positivity rates and time
19 absent from work; and

20 **WHEREAS**, several bills introduced in the Legislature would require employers to offer,
21 and allow employees to accrue and use, paid sick leave for the employees' own illness or injury,
22 the care of ill family members, the closure of the employees' place of employment due to a public
23 health emergency, or for services related to domestic abuse, sexual assault, or stalking.

24 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
25 **CITY OF SANTA FE** that it urges the New Mexico Legislature to adopt a paid sick leave act that

1 would require employers to offer and allow employees to accrue and use paid sick leave.

2 **BE IT FURTHER RESOLVED** that the Clerk’s office transmit a copy of this Resolution
3 to the Santa Fe Legislative Delegation, the leadership of the House and Senate, the Governor of
4 New Mexico, and the City’s lobbyist.

5 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2021.

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ALAN WEBBER, MAYOR

10 ATTEST:

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KRISTINE MIHELICIC, CITY CLERK

14 APPROVED AS TO FORM:

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ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/2021/Resolutions/Paid Sick Leave Support*

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): Paid Sick Leave Support

Sponsor(s): Councilors Cassutt-Sanchez, Villarreal, Abeyta, Rivera, and Mayor Webber

Reviewing Department(s): Office of Community Engagement

Staff Completing FIR: Jennifer Faubion Date: 1/27/21 Phone: 955-6033

Reviewed by City Attorney: *[Signature]* Date: Feb 4, 2021

Reviewed by Finance Director: *[Signature]* Date: Feb 4, 2021

Summary:

This Resolution supports the New Mexico State Legislature's passage of a bill during the 2021 New Mexico Legislative Session mandating businesses to provide paid sick leave to their employees.

Departments Affected:

None.

Consequences of Not Enacting Legislation:

The Governing Body would not state its support for a bill that would require businesses to provide paid sick leave for thousands of Santa Fe residents.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

None identified.

Performance and Administrative Implications:

The Resolution directs the Clerk's office to transmit a copy of the adopted Resolution to the Santa Fe Legislative Delegation, the leadership of the House and Senate, the Governor of New Mexico, and the City's lobbyist.

Fiscal Implications:

None identified.

Fiscal Impact

 X Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
<u>Personnel and</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Benefits*</u>							
<u>Capital Outlay</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Contractual/</u>	\$ _____	\$ _____	\$ _____		_____	_____	
<u>Professional Services</u>							
<u>Operating</u>	\$ _____	\$ _____	\$ _____		_____	_____	\$ _____
<u>Total:</u>	\$ _____	\$ _____	\$ _____				\$ _____

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

None Identified

Revenue

Revenue Type	FYE __	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

Revenue Narrative:

None Identified

Signature: 
Jennifer Faubion (Feb 4, 2021 08:09 MST)
Email: jrfaubion@santafenm.gov

Signature: 
Email: jbg Guillen@ci.santa-fe.nm.us

11. DISCUSSION/ACTION ITEMS

f. CONSIDERATION OF RESOLUTION NO. 2021-____. (Councilor Lindell, Councilor Abeyta, Councilor Cassutt-Sanchez, and Mayor Webber)

A Resolution Urging the New Mexico Legislature to Hold New Mexico School Districts and Charter Schools Harmless for Decreased Enrollment in the 2020-2021 School Year Resulting From the COVID-19 Pandemic and to Maintain Funding at 2019-2020 Levels. (Julie Sanchez, Children and Youth Division Director, jjsanchez@santafenm.gov, 955-6678)

COMMITTEE REVIEW:

Governing Body: 02/10/21

Name: Stefanie Beninato

Comment - 02/10/2021 06:34 AM: (No Vote)

I know this bill is under consideration at the Legislature and that its chance of passing is high. Do you need a resolution to authorize the lobbyist to contact state legislators? or is it just see what we support—aren't we great type of action?




City of Santa Fe New Mexico


Memorandum



Date: February 3, 2021

To: Governing Body

Via: Kyra Ochoa, Director, Community Health and Safety Department 
KO

From: Julie Sanchez, Division Director, Youth and Family Services Division 
jjs

RE: Santa Fe Public Schools Budget Support

ITEM AND ISSUE:

A Resolution supporting Santa Fe Public Schools' request to be held harmless and retain their previous fiscal year budget.

BACKGROUND AND SUMMARY:

Due to the COVID-19 pandemic, the moving of schools to online learning, and the physical closure of school buildings, this year has been incredibly difficult for all public schools across the state. The Superintendent of Santa Fe Public Schools and her staff reported a 4.5% reduction in student enrollment, many of these students opting for homeschooling or out-of-state, online alternative schooling. The Santa Fe Public Schools will see a budget reduction of nearly \$5.2 million for the next fiscal year if they are not held harmless for the decline in enrollment. The reduced number of students, and the subsequent drop in funding levels, would have a significant impact on overall programming.

ATTACHMENTS:

Resolution
Fiscal Impact Report

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2021-__**

3 **INTRODUCED BY:**

4
5 Councilor Signe I. Lindell

6 Councilor Roman “Tiger” Abeyta

7 Councilor Jamie Cassutt-Sanchez

8 Mayor Alan Webber

9
10 **A RESOLUTION**

11 **URGING THE NEW MEXICO LEGISLATURE TO HOLD NEW MEXICO SCHOOL**
12 **DISTRICTS AND CHARTER SCHOOLS HARMLESS FOR DECREASED**
13 **ENROLLMENT IN THE 2020-2021 SCHOOL YEAR RESULTING FROM THE COVID-**
14 **19 PANDEMIC AND TO MAINTAIN FUNDING AT 2019-2020 LEVELS.**

15
16 **WHEREAS**, a novel coronavirus causing coronavirus disease 2019 (COVID-19) first
17 appeared in December 2019 and has spread throughout the world and, on March 11, 2020, the
18 World Health Organization declared the outbreak a global pandemic; and

19 **WHEREAS**, as of January 26, 2021, New Mexico had 170,000 positive COVID-19 tests
20 and 3,157 deaths and, of these, Santa Fe County had 8,864 positive cases; and

21 **WHEREAS**, On March 11, 2020, Governor Michelle Lujan-Grisham declared a public
22 health emergency concerning the novel coronavirus outbreak; and

23 **WHEREAS**, On March 13, 2020, Governor Michelle Lujan-Grisham issued Executive
24 Order 2020-005, directing the Secretary of Education to close all public schools beginning March
25 16, 2020 due to the public health emergency and to reopen April 6, 2020; and

1 **WHEREAS**, On March 26, 2020, Governor Michelle Lujan-Grisham issued Executive
2 Order 2020-012 to close all New Mexico public schools for the remainder of the 2019-2020
3 Academic Year due to the public health emergency; and

4 **WHEREAS**, due to students leaving the district for home school, private schools, or out-
5 of-state endeavors, the Santa Fe Public Schools reported a drop in student enrollment of 624
6 students at the 80th day reporting period, which would reduce the budget from \$114M to \$106M;
7 and

8 **WHEREAS**, 85 percent of the Santa Fe Public Schools budget is allocated to personnel,
9 and a reduction of \$8.4M would have a significant impact on overall programming.

10 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
11 **CITY OF SANTA FE** that, due to the impact of the pandemic on public school enrollment
12 statewide, the Governing Body urges the New Mexico Legislature to hold school districts and
13 charter schools harmless by maintaining their funding at 2019-2020 funding levels.

14 **BE IT FURTHER RESOLVED** that the City Clerk transmit a copy of this Resolution to
15 the Santa Fe Legislative Delegation, the leadership of the House and Senate, the Governor of New
16 Mexico, and the City’s lobbyist.

17 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2021.

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20 _____
21 ALAN WEBBER, MAYOR

22 ATTEST:

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24 _____
25 KRISTINE MIHELICIC, CITY CLERK

1 APPROVED AS TO FORM:

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A handwritten signature in black ink, appearing to read "Erin McSherry", is written over a horizontal line. The signature is cursive and somewhat stylized.

4 ERIN K. MCSHERRY, CITY ATTORNEY

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25 *Legislation/2021/Resolutions/SFPS Funding Support*

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): SFPS Budget Support

Sponsor(s): Councilors Lindell, Abeyta, Cassutt-Sanchez, and Mayor Webber

Reviewing Department(s): Community Health and Safety Department

Staff Completing FIR: Julie Sanchez Date: 01/15/21 Phone: 955-6678

Reviewed by City Attorney:  Date: Feb 4, 2021

Reviewed by Finance Director:  Date: Feb 4, 2021

Summary:

The proposed Resolution expresses Governing Body support for holding harmless public school districts and charter schools for declining enrollment as a result of the COVID-19 pandemic and for retaining their budgets from the last fiscal year.

Departments Affected:

None.

Consequences of Not Enacting Legislation:

The Governing Body will not express its support for public school districts and charter schools retaining their budgets from the prior fiscal year.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

None identified.

Performance and Administrative Implications:

The proposed Resolution expresses support for retaining prior fiscal year funding levels for New Mexico public school districts and charter schools. The Clerk's office is directed to send a copy of the Resolution to the Santa Fe Legislative Delegation, the leadership of the House and Senate, the Governor of New Mexico, and the City's lobbyist.

Fiscal Implications:

None identified.

Fiscal Impact

 X Check here if no fiscal impact

Expenditures

Expenditure Type	FYE ___	FYE ___	FYE ___	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
<u>Personnel and Benefits*</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	_____
<u>Capital Outlay</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	_____
<u>Contractual/</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	_____
<u>Professional Services</u>							
<u>Operating</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	\$ _____
<u>Total:</u>	\$ _____	\$ _____	\$ _____				\$ _____

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

Revenue

Revenue Type	FYE ___	FYE ___	FYE ___	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		


Revenue Narrative:

City of Santa Fe, New Mexico

memo

DATE: February 5, 2021

TO: City Council

FROM: 

Mayor Alan Webber

RE: Appointment of Economic Development Advisory Committee Member

I would like to make the following appointments:

Economic Development Advisory Committee
Ryan Gallagher – term ending 6/2022 (Resume attached)

Mayor Webber,

I would like to express my interest to serve on the Economic Development Advisory Committee. With my education and experience in finance, financial planning, investment management, being a small business owner and serial entrepreneur as well as my skills in team collaboration and project leadership, I feel confident that I would significantly benefit the city in this capacity.

With a solid foundation in finance—including municipal finance, sustainable development, Investment management and starting a business—my background has prepared me to excel in this role. From examining financing options and how businesses contribute to the city, I am equipped with the skills and knowledge necessary to positively impact the city. While serving on the City of Santa Fe's Bicycle and Trails Advisory Committee (BTAC) as a Member At Large in the Law and Policy Subcommittee I have learned much about the City's planning resources and procedures. Additionally, my organizational, communication, and problem-solving capabilities prepare me to thrive in this challenging position. Being younger than most who might be considered for the seat I find that diversity in age, gender, socioeconomic background etc. make for great municipal commissions and boards. I have a strong interest in working toward the common goal of growth, preservation and uniqueness of the City Different. As a native Santa Fean with an 8-month-old son named Jeffrey, it is my obligation to continue to serve our great city of Santa Fe.

Best,
Ryan T. Gallagher

Ryan Gallagher

Rtgallagher11@hotmail.com

505.660.2667

EDUCATION

University of New Mexico

Bachelor of Arts, Psychology

Albuquerque, NM

Boston Institute of Finance, CFP

WORK EXPERIENCE

Morgan Stanley

Wealth Management Analyst

Santa Fe, NM

Estimated state date April 2021

- Prepared and investigated performance against all the field management goals, drivers and how to improve efficiencies.
- Created and maintained a database of clients and prospects based of their net worth and average return.
- Assisted in developing the analytical view of key performance indicators in excel.
- Forecasting client AUM in client database, for short term and long term view.
- Sought out balanced expense control through strategic and tactical opportunities including preparing and analyzing monthly reporting for divisional meetings.
- Developed and targeted niche groups to maximize marketing operations which resulted in larger rates of high net-worth prospects.

Christus St. Vincents

Financial Analyst

Santa Fe, NM

Decemeber 2019-May 2020

- Responsible for financial evaluations of physicians and physician practices in consideration of employment offers to new physicians.
- Conducted financial analysis on existing employed physician practices to determine profitability, utilization, and trends.
- Calculated quarterly physician pay adjustments based on productivity.
- Prepared various Ad Hoc analysis and data requests for Clinician Group management team.
- Provides monthly actual to budget variance explanations on Clinician Group operating departments.
- Prepared annual operating budgets.

Zoomies Inc. (Sold business)

Owner

Santa Fe, NM

November 2018-October 2019

- Started a business in the pet care industry after doing research on the growth of pet care.
- Maintained files and administrative records.
- Successfully marketed and created a database of over 200 clients.
- Studied market trends to adapt business to be competitive in its field.
- Forecasted financial data to insure cashflow and business longevity.
- Worked with multiple economic development organizations including SCORE, SBA and City of Santa Fe Economic Development.

Raymond James

Private Wealth Management Analyst

Scottsdale, AZ

February 2018-November 2018

- Prepared and investigated performance against all the field management goals, drivers and how to improve efficiencies.
- Created and maintained a database of clients and prospects based of their net worth and average

Ryan Gallagher

return.

- Assisted in developing the analytical view of key performance indicators in excel.
- Forecasting client AUM in client database, for short term and long term view.
- Sought out balanced expense control through strategic and tactical opportunities including preparing and analyzing monthly reporting for divisional meetings.
- Developed and targeted niche groups to maximize marketing operations which resulted in larger rates of high net-worth prospects.

Heritage Hotels and Resorts

Santa Fe, NM

Financial Controller

May 2016-August 2017

- Managed accounting department for transient and group-based leisure hotel with \$3.0 million in annual revenue.
- Coordinated and directed the preparation of the budget and financial forecasts and report variances.
- Kept up to date information on financial data pertaining to the hospitality industry.
- Income audit processing, AR, AP, payroll processing, month end JE and balance sheet reconciliations, inventory count and analysis, bank reconciliations, collaboration with General Manager on developing annual operating budgets and 30, 90 day and 12-month forecasting.

Thornburg Investment Management

Santa Fe, NM

Summer Analyst

May 2014–September 2014

- Collected, processed, verified reports for account related information to head of Institutional Sales.
- Maintained database of financial data and clients in various excel spreadsheets.
- Involved in initial due diligence, creation of the PowerPoint decks and sales literature.
- Responsible for performing comparable companies and precedent transaction analyses in Excel
- Utilized PowerPoint to create pitch books for current transactions and potential clients

LEADERSHIP

City of Santa Fe's Bicycle and Trails Advisory Committee (BTAC)

Member At Large- Law and Policy Subcommittee

University of California-Berkeley Archeological

Moorea, Tahiti

Intern

June 2013 – Sept 2013

- Research included settlement pattern archaeology, household archaeology, the development of rank and social complexity, and interpreting social relations
- Technical specializations include reduction stage analysis of lithic debitage and use of geochemical analyses for sourcing materials

Exams Passed

Securities Industry Essentials® (SIE®)

Ryan Gallagher






Appointments 02-10-21

Final Audit Report

2021-02-05

Created:	2021-02-05
By:	Geralyn Cardenas (gfcardenas@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAMZqFm_Sd4Z1iI9HBVbYaR6LtZ_MKyr5A

"Appointments 02-10-21" History

-  Document created by Geralyn Cardenas (gfcardenas@ci.santa-fe.nm.us)
2021-02-05 - 10:09:31 PM GMT- IP address: 63.232.20.2
-  Document emailed to Alan Webber (amwebber@santafenm.gov) for signature
2021-02-05 - 10:10:10 PM GMT
-  Email viewed by Alan Webber (amwebber@santafenm.gov)
2021-02-05 - 10:10:20 PM GMT- IP address: 63.232.20.2
-  Document e-signed by Alan Webber (amwebber@santafenm.gov)
Signature Date: 2021-02-05 - 10:10:49 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2021-02-05 - 10:10:49 PM GMT



City of Santa Fe, New Mexico

2511 Camino Entrada, P.O. Box 909, Santa Fe, N.M. 87504-0909

MUNICIPAL COURT Virginia Vigil, Municipal Judge

Phone: (505) 955-5070

Fax: (505) 955-5159

To: City Councilors
Mayor Webber

From: Virginia Vigil 
Municipal Court Judge

Date: 1/21/2021

Re: Appointment of Staff Attorney, Chad Chittum, as Pro-tem Judge

ITEM

Pursuant to Section 2-3.4(c) SFCC, I am attaching Mr. Chittum's resume for your approval as pro-tem judge.

BACKGROUND & SUMMARY

Due to the recent changes regarding pro-tem judges and the on-going New Mexico State Legislative Session, the Santa Fe Municipal Court has only one pro-tem judge available on a limited basis. While the Court is in the process of getting the other pro-tem judges in compliance, Mr. Chittum's appointment as pro-tem judge would provide an immediate and readily available resource without continued delay. Mr. Chittum is an ideal appointment as he has extensive knowledge of criminal law and procedure and the administration of the court. Mr. Chittum would handle all matters of the court when I am unavailable. Mr. Chittum is a registered voter in the City of Santa Fe and is an active member of the New Mexico State Bar.

ACTION REQUESTED

Approval of Mr. Chittum as pro-tem judge

CHAD CHITTUM

2 W Avenida Sebastian, Santa Fe, NM 87506 (505) 423-5645
cchittum@asu.edu

LICENSES

Admitted to practice law in New Mexico in 2012

EDUCATION

St. Mary's University School of Law, San Antonio, Texas
Juris Doctor, 2012

Arizona State University, Tempe, Arizona
Bachelor of Arts, Major: History; Minor: Political Science, *magna cum laude*, 2008

EXPERIENCE

City of Santa Fe Municipal Court, Santa Fe, New Mexico, 87504, (505) 955-5110
September 2019 – present

Staff Attorney

Performs varied legal advisory functions and legal counsel to the Santa Fe Municipal Court

Duties include:

- legal advisor to the Municipal Court Judge;
- legal research, analysis and writings;
- develops and conducts presentations, trainings, and professional development sessions for Municipal Court Staff;
- performs administrative and operation functions;
- supervises Municipal Court Staff.

City of Santa Fe Attorney's Office, Santa Fe, New Mexico, 87504, (505) 955-6512
February 2016 –September 2019

Assistant City Attorney/City Prosecutor

Represent the City of Santa Fe in all phases of prosecution of code violations.

Duties included:

- litigating trials and motion hearings;
- research and writing legal briefs;
- drafting plea agreements, judgments and orders;
- advising city staff and law enforcement with legal issues.

First Judicial District Attorney's Office, Santa Fe, New Mexico, 87501, (505) 827-5000
August 2012 – February 2016

Senior Trial Attorney

Represent the State of New Mexico in all phases of felony prosecution. Assigned approximately one hundred thirty felony cases (second-fourth degree) annually.

Duties included:

- litigating jury trials and preliminary, evidentiary and motion hearings;
- presenting felony indictments to the grand jury;
- researching and writing legal briefs;

CHAD CHITTUM

2 W Avenida Sebastian, Santa Fe, NM 87506 (505) 423-5645
cchittum@asu.edu

- drafting plea agreements, judgments and orders;
- advising and assisting law enforcement with legal issues.

High Intensity Drug Trafficking Area Prosecutor

Responsible for screening felony cases submitted by law enforcement and duties include:

- deciding what charges are presented to the Grand Jury;
- dismissing cases that do not involve criminal conduct;
- referring case to Pre-prosecution Deferment Program.

Acequia Attorney

Represent the State of New Mexico in criminal matters regarding acequias

Supervisor: Juan Valencia (505) 827-5000

New Mexico Supreme Court, Santa Fe, New Mexico, 87501, (505) 827-4860

June 2011 – August 2011

Internship with Justice Richard Bosson

Assisting with legal research and writing

Supervisor: Justice Richard Bosson (505) 827-4860

Bill Piatt, Law Professor and former Dean of St. Mary's University School of Law, San

Antonio, Texas, 78228, (210) 436-3533

August 2010 – June 2011

Internship

Assisting with Immigration cases; such as Employment-Base Immigration Visas, Employment Second Preference; Petition for Alien Relative

Supervisor: Bill Piatt (210) 436-3533

Judge Barbara Nellermeoe, 45th District Court, San Antonio, Texas, 78205, (210) 335-0211

July 2010 – August 2010

Observership

Writing and editing memorandums and articles; observing civil proceedings and trials

Supervisor: Judge Barbara Nellermeoe (210) 335-0211

Troon Golf and Las Campanas, Phoenix, Arizona, June 2006- June 2008; Santa Fe, New Mexico, March 2004- June 2006

Golf Shop Attendant; Player Assistant

Controlled and coordinated daily golf operations and tournaments; enforced code of ethics and rules of golf; resolved member issues and conflicts

The American School, St. Maarten, Netherlands Antilles, May 2001- December 2002

Teacher

Taught all subjects for 3rd and 4th grades; taught physical education classes for 1st through 6th grades

CHAD CHITTUM

2 W Avenida Sebastian, Santa Fe, NM 87506 (505) 423-5645
cchittum@asu.edu

Director of Gymnastics Programs, Variety of locations in the United States and Ireland,
September 1992- March 2005

Gym Manager; Training and Education coordinator; Head Competitive Team Coach; Advanced
Tumbling Coach

Supervised staff of 10-15 employees; developed and applied goal oriented training schedules
personalized to individual gymnast; coached of all levels of competitive and recreational
gymnastics and cheerleading, including a number of State and National Champions and Finalists

REFERENCE

Angela "Spence" Pacheco, Former First Judicial District Attorney, Santa Fe, New Mexico,
87507, (505) 501-4178

Michael Jones, Defense Attorney, Clark, Jones and Pennington, Santa Fe, New Mexico, 87501,
(505) 820-1825