City of Santa Fe

AGENDA

REGULAR MEETING OF
THE GOVERNING BODY
JULY 14, 2021
5:00 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, the ban on public gatherings in excess of those permitted in the current Public Health Order, and the evolving technology supports available, the Governing Body meeting will be conducted in a hybrid manner, with members of the public and staff attending virtually and members of the Governing Body attending in City Hall, to the extent that their physical presence is not difficult or impossible.

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 on-line 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:

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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: 935 8306 2870 - Passcode: 162856**
Phone attendees should press *9 to use the "Raise Hand" function to be recognized by the Mayor to speak at the appropriate time.

AFTERNOON SESSION - 5:00 P.M.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

Councilor Lindell

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

Councilor Romero-Wirth

4. **INVOCATION**

Councilor Abeyta

5. **ROLL CALL**

6. **APPROVAL OF AGENDA**

7. **APPROVAL OF CONSENT CALENDAR**

8. **APPROVAL OF MINUTES**

   a. Regular Governing Body Meeting – June 30, 2021

9. **PRESENTATIONS**

a. Cannabis Update (Jarel LaPan Hill, City Manager, jlapanhill@santafenm.gov) **INFORMATION ONLY**

10. **CONSENT CALENDAR**

a. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from Blazin Wings, Inc., dba Buffalo Wild Wings, for a Transfer of Ownership (Change of Stockholders) of Canopy Liquor License No. 1363. This License will Remain at 3501 Zafarano Drive, Santa Fe. (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)

Committee Review:
Liquor Hearing: 06/21/2021
Governing Body: 07/14/2021

b. Request for Approval of a Professional Services Contract in the Total Amount of $254,000 for CHART Consultant Team; Artful Life, LLC. (Pauline Kanako Kamiyama, Arts and Culture Department Director: pkkamiyama@santafenm.gov, 955-470-8482; Kristine Mihelcic, City Clerk and Community Engagement Department Director: kmmihelcic@santafenm.gov, 955-6846)

Committee Review:
Finance Committee: 07/06/21
Quality of Life Committee: 07/07/21
Public Works and Utilities Committee: 07/12/21
Governing Body: 07/14/21

c. Request Approval of a Budget Amendment Resolution (BAR) in the Amount of $78,578 for Department of Justice, Office of Justice Programs, FY 20 Coronavirus Emergency Supplemental Funding Grant Award. (Andrew Padilla, Chief of Police; aapadilla@santafenm.gov, 955-5102)

Committee Review:
Finance Committee: 07/06/21

Quality of Life Committee: 07/07/21
Governing Body: 07/14/21

d. Request Approval of a Budget Amendment Resolution (BAR) in the Amount of $89,304 for New Mexico Department of Transportation Traffic Projects Grant Award. (Andrew Padilla, Chief of Police; aapadilla@santafenm.gov, 955-5102)

Committee Review:
Finance Committee: 07/06/21
Quality of Life Committee: 07/07/21
Governing Body: 07/14/21

e. Request for Approval of Written Findings of Fact and Conclusions of Law Reflecting the Decision by a Majority of Members of the Governing Body to Deny Appeal #2021-3450-APPL and Affirm the Historic District Review Board's Decision in Case #2021-3185-HDRB to Impose Conditions of Approval on the Request by Appellant Julia Burt to Install Two New Gates Constructed of Oxidized Steel at 1299 Upper Canyon Road. (Erin K. McSherry, City Attorney; ekmcsherry@santafenm.gov, 955-6512)

Committee Review:
Governing Body: 07/14/2021

11. **DISCUSSION/ACTION ITEMS**

a. Procedural Vote on Whether the Governing Body's Consideration of the Resolution Related to the Vacation of a Portion of Existing Galisteo Street Right-of-Way Should Occur Tonight as a Discussion Item or Should Be Scheduled as a Public Hearing at an Upcoming Meeting of the Governing Body, in Addition to the Public Hearings that Have Already Been Held by the Governing Body and the Planning Commission, and the Additional Public Hearing that Will Be Held by the Planning Commission after Governing Body Approval of the Resolution (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)

Committee Review:
Governing Body: 07/14/2021

b. CONSIDERATION OF RESOLUTION NO. 2021-__.

A Resolution Approving the Vacation of Existing Portions of the Galisteo Road Rights-of-Way at Galisteo Road's Intersection with Zia Road, Contingent on the Planning Commission's Approval of the Vacation of Existing Rights-of-Way and the Dedication of New Galisteo Road Right-of-Way South of Galisteo Road's Intersection with Zia Road in a New Alignment, and New Galisteo Road Right-of-Way North of Galisteo Road's Intersection with Zia Road. (Lee Logston, Senior Land Use Planner: lrlogston@santafenm.gov, 955-6136)

Committee Review:
Public Works and Utilities Committee: 06/28/21
Quality of Life Committee: 07/07/21
Governing Body: 07/14/21

c. CONSIDERATION OF RESOLUTION NO. 2021-__. (Mayor Webber)
A Resolution Extending the State of Emergency as Proclaimed by the Mayor on July 12, 2021, by Twenty-Six (26) Days, Expring at Noon on August 9, 2021, Pursuant to Section 20-1.3 SFCC 1987. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov, 955-6512)

Committee Review:
Governing Body: 07/14/21

d. **Request for Public Hearing on August 11, 2021.**
Consideration of Bill No. 2021-15. An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021 in an Aggregate Principal Amount not to Exceed $14,745,000 for the Purpose of (1) Refunding, Discharging and Paying the City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2010B and Maturing On and After June 1, 2022; (2) Refunding, Discharging and Paying the City of Santa Fe, New Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012A and Maturing On and After June 1, 2022; and (3) Paying Costs of Issuance of the Series 2021 Bonds; Calling for the Redemption of the Outstanding Series 2010B Bonds and Series 2012A Bonds; Providing that the Bonds Will be Payable and Collectible from Certain Gross Receipts Tax Revenues Distributed to the City; Approving the Selection of an Underwriter and Forms of a Preliminary Official Statement and a Paying Agent Registrar and Depositary

Agent Agreement; Delegating Authority to the Mayor or, in the Mayor's Absence, the City Manager or Finance Director, to Approve the Final Principal Amount, Interest Rates and Other Details of the Bonds Within the Parameters Set Forth in this Authorizing Ordinance, and to Execute and Deliver a Bond Purchase Agreement for the Sale of the Bonds to the Underwriter; Proving for the Collection of Certain Gross Receipts Tax Revenues; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing all Ordinances in Conflict Herewith; and Related Matters. (Mayor Webber) (Brad Fluetsch, Planning and Investment Officer: bjfleutsch@santafenm.gov, 955-6885)

Committee Review:
Introduced: 06/30/21
Governing Body (request to publish): 07/14/21
Finance Committee: 07/19/21
Public Works and Utilities Committee: 07/26/21
Governing Body (public hearing): 08/11/21

e. Recommendation on Conformity of Appeal of Revocation of Short Term Rental Permit #STR-229221, Case Number #2021-3813, Appeal by Charles LaCalle of Land Use Director's Decision to Revoke the Short Term Rental Permit for 521 ½ W. San Francisco Street. (Michael Prinz, Assistant City Attorney, mnprinz@santafenm.gov, 955-6554)

Committee Review:
Governing Body: 07/14/2021

12. **MIDTOWN OVERVIEW**

a. Midtown Planning & Development Bi-Weekly Report, by Office of Economic Development Department. (Rich Brown, Director, Community & Economic Development Department, rdbrown@santafenm.gov, 955-6625) **INFORMATION ONLY**

Information Presentation Topic: Public Engagement

Presenters: Michaele Pride, Design & Planning Assistance Center

Stefan Pelegrini, Opticos,

13. **MATTERS FROM THE CITY MANAGER**

14. **MATTERS FROM THE CITY ATTORNEY**

15. **MATTERS FROM THE CITY CLERK**

16. **COMMUNICATIONS FROM THE GOVERNING BODY**

    a. Introduction of Legislation

EVENING SESSION - 7:00 P.M.

17. **ROLL CALL**

18. **PETITIONS FROM THE FLOOR**

19. **APPOINTMENTS**

    a. Bicycle and Pedestrian Advisory Committee
    - Yolanda Eisenstein – Reappointment – Term Ending 06/2023
    - Tony Gerlicz – Appointment – Term Ending 06/2022
    - Ben Pingilley – Appointment – Term Ending 06/2023
    - Michelle Hoffman, MA, LPCC – Appointment – Term Ending 06/2023
    - Phil Lucero, MA – Appointment – Term Ending 06/2023
    - Terence G. Foreback, PE – Appointment – Term Ending 06/2022

20. **PUBLIC HEARINGS**

21. **ADJOURN**

22. **UPCOMING PUBLIC HEARINGS**

    a. Meeting Date – July 28, 2021

    CONSIDERATION OF BILL NO. 2021-__. (Councilor Lindell and Mayor Webber)
    An Ordinance Amending Section 23-6.2 SFCC 1987 to Remove the Six-Month Minimum Lease Duration for the Sale and Consumption of Alcohol on City Property. (Randy Randall, TOURISM Santa Fe Executive Director: rrandall@santafenm.gov, 955-6209; Rich Brown,

Community and Economic Development Department Director: rdbrown@santafenm.gov, 955-6625; Jesse Guillen, Legislative Liaison: jbguillen@santafenm.gov, 955-6518)

Committee Review:
Introduced: 5/12/21
Quality of Life Committee: 6/16/21
Public Works and Utilities Committee: 06/28/21
Governing Body (request to publish): 06/30/21
Economic Development Advisory Committee: 7/14/21
Governing Body (public hearing): 07/28/21

Publication Date – July 14, 2021

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AFTERNOON SESSION - 4:00 P.M.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

Councilor Garcia

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

Councilor Rivera

4. **INVOCATION**

Councilor Cassutt

5. **ROLL CALL**

6. **APPROVAL OF AGENDA**

7. **APPROVAL OF CONSENT CALENDAR**

8. **APPROVAL OF MINUTES**

   a. Regular Governing Body Meeting – May 26, 2021

   b. Regular Governing Body Minutes – June 6, 2021

9. **PRESENTATIONS**

a. COVID-19 Update Pursuant to Resolution 2020-51. (Jarel LaPan Hill, City Manager, jlapanhill@santafenm.gov, 955-6848 and Kyra Ochoa, Community Health and Safety Director, krochoa@santafenm.gov, 955-6603) **INFORMATION ONLY**

10. **CONSENT CALENDAR**

a. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from Vivac Winerly, L.P. for the Following: (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)
   1. Pursuant to §60-6B-10 NMSA 1978, Consideration of a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcohol at Vivac Winery, 625 Canyon Road, Santa Fe, which is within 300 Feet of the Quaker Meeting House, SF Religious Society of Friends, 630 Canyon Road, Santa Fe.
   2. If the Waiver of the 300 Foot Location Restriction is Granted, Consideration of a Request for a Winegrower 3rd Offsite Location to be Located at Vivac Winery, 625 Canyon Road, Santa Fe.

b. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from El Maria Bonita Restaurant, LLC for a Restaurant Liquor License (Beer and Wine), with On-Premise Consumption Only to be Located at El Maria Bonita, 3565 Cerrillos Road, Santa Fe. (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)

c. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from 4250 Group, LLC for a Restaurant Liquor License (Beer and Wine), with On-Premise Consumption Only to be Located at Flying Tortilla, 4250 Cerrillos Road, Santa Fe. (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)

d. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from Markham Blankstein & Bottle, LLC, 1722 St.

Michaels Dr., Suite F, for the Following: (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)

1. Pursuant to §60-6B-10 NMSA 1978, Consideration of a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcohol at Liu Liu Liu, 1722 St. Michaels Dr., Suite F, Santa Fe, which is within 300 Feet of Milagro Middle School, 1720 Llano Street, Santa Fe.
2. If the Waiver of the 300 Foot Location Restriction is Granted, Consideration of a Request for a Restaurant Beer and Wine Liquor License, with on Premise Consumption Only, to be Located at Liu Liu Liu, 1722 St. Michaels Dr., Suite F, Santa Fe.

e. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from Horno Restaurant LLC, for a Restaurant Liquor License (Beer and Wine), with On-Premise Consumption Only, to be Located at Horno Restaurant LLC, 85 & 95 W Marcy Street, Santa Fe. (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)

f. Request for Approval of Volunteer Station Agreement with the Boys and Girls Club of Santa Fe, No Financial Responsibility, for the Foster Grandparent Program; Boys and Girls Club of Santa Fe. (Anya Alarid, Volunteer Program Manager: aalarid@santafenm.gov, 955-4744)

Committee Review:
Quality of Life Committee: 06/02/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

g. Request Approval of Amendment No. 1 to Service Contract 20-0233 with American Fire Protection Group, Inc.; Increasing the Existing Contract in the Amount of $63,274.06 Including NMGRT from $271,093.75 to $334,367.81 for Fire Monitoring, Inspections, Repair and Maintenance Services throughout City Facilities. (Caryn Grosse, Facilities Project Administrator, clgrosse@santafenm.gov, 955-5938)

Committee Review:
Finance Committee: 06/21/2021
Public Works and Utilities Committee: 06/28/2021
Governing Body: 06/30/2021

h. Request for Approval of a State of New Mexico Children, Youth and Families Department (CYFD) Amendment No. 1 to CYFD Agreement No. 21-690-3200-20846, City Contract #21-20846, to Update the Scope of Work to Reflect Updated Language, Update the Budget to Reflect Funding Information for Juvenile Justice Alternative to Detention Programs. (Julie Sanchez, Youth and Family Services Division Director, jjsanchez@santafenm.gov, 505-955-6678)

Committee Review:
Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

i. CONSIDERATION OF RESOLUTION NO. 2021-__. (Mayor Webber, Councilor Romero-Wirth, Councilor Cassutt)
A Resolution Relating to Income Disparity and Inequity; Authorizing the Execution of a Memorandum of Understanding with Mayors for a Guaranteed Income and the Santa Fe Community College to Assist with Launching a Pilot Project to Support Young Parents Enrolled at the Santa Fe Community College, and to Build Support for a Guaranteed Income in the City of Santa Fe. (Julie Sanchez, Youth and Family Services Division Director: jjsanchez@santafenm.gov, 955-6678)

Committee Review:
Introduced: 06/09/21
Quality of Life Committee: 06/16/21 (discussed)
Finance Committee: 06/21/21
Public Works and Utilities Committee: 06/28/21
Governing Body: 06/30/21

j. Request for the Approval of the Amendment No. 1 to Contract 19-0822 to Increase Amount by $17,500.00 in the Total Amount of $147,465.65 and Extend the Term from June 30, 2021 to June 30, 2022. (Porfirio Chavarria; pnchavarria@santafenm.gov; 505-955-3119)

Committee Review:
Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

k. Request for Approval of RFP #21/32/P the Total Amount of $1,140,308 for Utility Bill Prints, Postage and Insert Information, for 4 years; Valli Information Systems Inc., DBA Postal Pros Southwest; (Nancy L Jimenez, Utility Billing Division Director, nljimenez@santafenm.gov, 505-955-4364)
Committee Review:
Public Works and Utilities Committee: 06/07/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

l. Request for Approval of Sole Source Procurement for Project Management, Application Support and Technical Support for 4 years with Mountain River Consulting Inc. in the Total Amount of $1,422,000. (Nancy L Jimenez, Utility Billing Division Director: nljimenez@santafenm.gov, 505-955-4364)
Committee Review:
Public Works and Utilities Committee: 06/07/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

m. Request for Approval of Amendment #3 to PSA #19-0234 with Carollo Engineers, Inc. to Extend the Term for One More Year Through June 30, 2022.(William Schneider, Water Resources Manager: whschneider@santafenm.gov, 955-4203)
Committee Review:
Public Works and Utilities Committee: 06/07/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

n. Request for Approval of County Partnership in the San Juan Chama Return Flow Project. (Jesse Roach, Water Division Director, jdroach@santafenm.gov, 955-4309; Marcos Martinez, Assistant City Attorney, mdmartinez@santafenm.gov, 955-6502)
Committee Review:
Public Works and Utilities Committee: 06/07/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

o. Request for the Approval of Amendment No. 3 to the PSA with Vladimir Jones in the Total Amount of $1,450,000 for Advertising Agency Services for Tourism Santa Fe for FY22. (Randy Randall, Tourism SF Director: rrandall@santafenm.gov, 505-966-6209)

Committee Review:
Public Works and Utilities Committee: 06/07/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

p. CONSIDERATION OF RESOLUTION NO. 2021-__. (Councilor Vigil Coppler, Councilor Cassutt, Councilor Garcia, and Councilor Villarreal)
A Resolution Supporting the Tenth Annual Neighbor to Neighbor Fund Drive. (Jesse Guillen, Legislative Liaison: jbguillen@santafenm.gov, 955-6518)

Committee Review:
Introduced: 6/9/21
Quality of Life Committee: 06/16/21
Finance Committee: 06/21/21
Governing Body: 06/30/21

q. CONSIDERATION OF RESOLUTION NO. 2021-__. (Mayor Webber, Councilor Vigil Coppler, Councilor Romero-Wirth)
A Resolution Donating Property Identified as 635 Alto Street and Resources to a Developer Qualified as a "Grantee" Under the New Mexico Affordable Housing Act for Development of at Least Five (5) Low-Priced Dwelling Units. (Alexandra Ladd, Office of Affordable Housing Director: agladd@santafenm.gov, 955-6346)

Committee Review:
Introduction: 06/09/21
Community Development Commission: 06/16/21
Quality of Life Committee: 06/16/21
Finance Committee: 06/21/21
Public Works and Utilities Committee: 06/28/21
Governing Body: 06/30/21

r. Request for the Approval of Fiscal Year 2022 Grant Contract in the Total Amount of $304,000 for the Foster Grandparent, Senior Companion, and

Retired Senior Companion Volunteer Programs; State of New Mexico Aging and Long Term Services Department. (Anya Alarid, Volunteer Program Manager aalarid@santafenm.gov, 505-955-4744)

Committee Review:
Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

s. Request Approval of Contract with the National Fitness Council, LP. in the Amount of $195,560.94 Including NMGRT to Purchase Equipment Exclusive Keith Haring Artwork Fitness Equipment and Request Approval of BAR in the Amount of $250,000.00 from Neighborhood Parks Impact Fees to Parks Construction for the Purchase and Installation of Fitness Equipment for SWAN Park. (Melissa McDonald, Acting Parks Division Director: mamcdonald@santafenm.gov, 955-6840)

Committee Review:
Finance Committee: 06/21/2021
Public Works and Utilities Committee: 06/28/2021
Governing Body: 06/30/2021

t. Request for Approval of the Allocation for the 2021-2022 Affordable Housing Trust Fund (AHTF) and the Attached Contracts Awarded in Response to RFP #21/25/P Totaling $1,225,000. (Alexandra Ladd, Director of Office of Affordable Housing:agladd@santafenm.gov 505-303-9868)

Committee Review:
Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

u. Request Approval of 2021-2022 Community Development Block Grant (CDBG) Contracts Awarded in Response to RFP #21/24/P in the Amount of $556,067, Plus Program Administration $124,619. (Alexandra Ladd, Director of Office of Affordable Housing: agladd@santafenm.gov, 505-303-9868)

Committee Review:
Quality of Life Committee: 06/16/2021

Finance Committee: 06/21/2021
Governing Body: 06/30/2021

v. Request for the Approval of the Agreement for Animal Confinement, Care and Disposal Between the Santa Fe Animal Shelter and Human Society, Inc. and the City of Santa Fe in the Total Amount of $529,231.80 for the Confinement, Care, Maintenance and Disposal of Stray and Impounded Animals for a Period of Three (3) Years from the Time of Approval by Both the City of Santa Fe and the Santa Fe Animal Shelter and Humane Society, Inc. (Ben Valdez, Deputy Chief of Police: bpvaldez@santafenm.gov, 955-5040).

Committee Review:
Public Safety Committee: 06/15/21
Quality of Life Committee: 06/16/21
Finance Committee: 06/21/21
Governing Body: 06/30/21

w. Request for Approval to Submit for Review to the US Department of Justice, Office of Justice Programs, Certifications and Assurances by the Chief Executive of the Applicant Government. (Andrew Padilla, Chief of Police, Police Department, aapadilla@santafenm.gov, 955-5102)

Committee Review:
Public Safety Committee: 06/15/2021
Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

x. Request for Approval of a Memorandum of Understanding (MOU) Munis Contract #3202749 Between the City, NMDOT, NCRTD and Santa Fe MPO Detailing the Responsibilities of Each Agency to Satisfy the Federal Transit Authorities Funding Process. (Erick Aune, MPO Officer, ejaune@santafenm.gov 505-330-8483)

Committee Review:
Finance Committee: 06/21/2021
Public Works and Public Utilities Committee: 06/28/2021
Governing Body: 06/30/21

y. Request for Approval of Amendment No. 4 to the Professional Service Agreement (PSA) with Certified Folder in the Amount of $50,000 for Distribution of the Official Santa Fe Visitor's Guide for FY22. (Randy Randall, TOURISM Director, rrandall@santafenm.gov, 505-955-6209).

Committee Review
Finance Committee: 06/21/2021
Public Works and Utilities: 06/28/2021
Governing Body: 06/30/2021

z. Request for Approval of Amendment #3 to PSA with Lou Hammond in the amount of $125,000 for Public Relations Services for Tourism Santa Fe for FY22 (Randy Randall, TOURISM SF Director, rrandall@santafenm.gov, 955-6209)

Committee Review
Finance Committee: 06/21/2021
Public Works and Utilities: 06/28/2021
Governing Body: 06/30/2021

aa. Request for Approval of Collective Bargaining Agreement Between the City of Santa Fe and Santa Fe Firefighter Association Local 2059 for July 2021 Through July 2024. (Paul Babcock, Fire Chief; prbabcock@santafenm.gov, 955-3110 and Brian Moya, Assistant Fire Chief; bjmoya@santafenm.gov, 955-3111) **Committee Review:**
Finance Committee: 06/21/2021
Public Works Committee: 06/28/2021
Governing Body: 06/30/2021

ab. Request for Approval of the Collective Bargaining Agreement Between the City of Santa Fe and the Santa Fe Police Officers Association for FY22. Contract Includes Salary Increases in the Amount of $423,039 for Sworn and Civilian Bargaining Unit Employees. (Ben Valdez, Deputy Chief of Police, bpvaldez@santafenm.gov, 955-5040)

Committee Review:
Public Safety Committee: 06/15/21
Quality of Life Committee: 06/16/21
Finance Committee: 06/21/21
Governing Body: 06/30/21

ac. Request for Approval of Amendment No. 3 to the Collective Bargaining Agreement Between the City of Santa Fe and Local 3999 City of Santa Fe Employees of the American Federation of State, County and Municipal Employees, Council 18, AFL-CIO. (Bernadette Salazar, Human Resources Director, bjsalazar@santafenm.gov, 505.955.6591)

Committee Review
Finance Committee: 06/21/2021
Public Works: 06/28/2021
Governing Body: 06/30/2021

ad. **Request to Publish Notice of Public Hearing on July 28, 2021.** Consideration of Bill No. 2021-14. An Ordinance Amending Section 23-6.2 SFCC 1987 to Remove the Six-Month Minimum Lease Duration for the Sale and Consumption of Alcohol on City Property. (Councilor Lindell and Mayor Webber) (Randy Randall, TOURISM Santa Fe Executive Director: rrandall@santafenm.gov, 955-6209; Rich Brown, Community and Economic Development Department Director: rdbrown@santafenm.gov, 955-6625 and Jesse Guillen, Legislative Liaison: jbguillen@santafenm.gov, 955-6518)

Committee Review:
Introduced: 05/12/21
Quality of Life Committee: 06/16/21
Public Works and Utilities Committee: 06/28/21
Governing Body (request to publish): 06/30/21
Economic Development Advisory Committee: 07/14/21
Governing Body (public hearing): 07/28/21

ae. Request for Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of $1,000,000.00 from the 2018 Bond Premiums to be Used for the Santa Fe Train Depot Exterior Rehabilitation Project. (Sam Burnett, Interim Facilities Division Director, jsburnett@santafenm.gov, 505-795-2491)

Committee Review:
Finance Committee: 06/21/21
Public Works and Utilities Committee: 06/28/21
Governing Body: 06/30/21

11. **DISCUSSION/ACTION ITEMS**

a. Request for Approval of Budget Adjustment Resolution (BAR)in the Amount of $725,000.00 from the 2018 Bond Premiums to be Used for the Genoveva Chavez Leisure Pool, the Main Library Elevators and Tennis Court and Pickle Ball Improvements at Select City Parks. (Sam Burnett, Interim Facilities Division Director, jsburnett@santafenm.gov, 505-795-2491)

Committee Review:
Public Works Committee: 06/28/2021
Governing Body: 06/30/2021

b. Request for Approval of Budget Adjustment Request (BAR) to Move Funds for the Solar and Streetlighting Contracts into Budget Fund 315 (CIP Resources). (Javier Rosado, Engineering Division Director: jhrosado@santafenm.gov, 955-6631 and Caryn Grosse, Facilities Project Administrator: clgrosse@santafenm.gov, 955-5938)

Committee Review:
Public Works & Utilities – 06/28/2021
Governing Body – 06/30/2021

c. List of Housing Proposals and Recommendations to be Considered in the Months Ahead, and their Respective Proposed Assignments to City Council Standing Committees, Pursuant to Resolution 2021-23, Which Established a Work Plan for Improving Access to Affordable Housing Opportunities for Residents of the City of Santa Fe. (Jarel LaPan Hill, City Manager, jlapanhill@santafenm.gov, 955-6848)

12. **MIDTOWN OVERVIEW**

a. Midtown Planning & Development Bi-Weekly Report, by Office of Economic Development Department. (Rich Brown, Director, Community & Economic Development Department. rdbrown@santafe.gov, 955-6625) **INFORMATION ONLY**

Progress Report: Update
Presenter: Daniel Hernandez, Proyecto, Midtown Redevelopment Project Manager

13. **MATTERS FROM THE CITY MANAGER**

14. **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 or May Become a Party, Including, But Not Limited to, Discussion Regarding City of Albuquerque et al v. Taxation and Revenue Department; and Union Protectíva de Santa Fé v. Mayor Alan Webber, in his Official Capacity, and the City of Santa Fe. (Erin K. McSherry, City Attorney; ekmcsherry@santafenm.gov, 955-6512)

15. **MATTERS FROM THE CITY CLERK**

16. **COMMUNICATIONS FROM THE GOVERNING BODY**

a. Introduction of Legislation

EVENING SESSION - 6:00 P.M.

17. **ROLL CALL**

18. **PETITIONS FROM THE FLOOR**

19. **APPOINTMENTS**

a. Veterans' Advisory Board
- Brian Wempen – Appointment – Term 05/2023
- Sylvia Gullingsrud – Appointment – Term 05/2023
- Anna Vigil – Reappointment – Term Ending 05/2023
- John Palamino – Reappointment – Term Ending 05/2023
- Colonel James Williams – Reappointment – Term Ending 05/2023
- Sigrid Hannah Mabel – Reappointment – Term Ending 05/2023

b. Community Health and Safety Task Force
- Annie Rasquin – Appointment – Term will Expire Upon Completion of Duties and Responsibilities

20. **PUBLIC HEARINGS**

a. Appeal #2021-3450-APPL of Case #2021-3185-HDRB. Appeal by Julia Burt of the Historic Districts Review Board's Decision to Impose Conditions of Approval on an Application to Install Two Gates Constructed of Oxidized Steel, Including a Pedestrian Gate and a Vehicular Gate, at 1299 Upper Canyon Road, in the Downtown and Eastside Historic District. (Sally A. Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

21. **ADJOURN**

Governing Body
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June 30, 2021

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Minutes of the
Regular Meeting of the Governing Body
Wednesday, June 30, 2021
Hybrid 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, June 30, 2021, at approximately 4:06 p.m., at the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico as a hybrid meeting.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Councilor Garcia.

3. SALUTE TO THE NEW MEXICO FLAG

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

4. INVOCATION

The Invocation was led by Councilor Lindell.

Councilor Villarreal remembered Irene Trujillo, grandmother of Tommy Trujillo. She lived in District 1. “She held out having her house when Harrison Road was getting developed and wanted to commend her for taking care of her children and being active in the community.” She also remembered the life of Bennie “Benzo” Martinez III, who died too young, and his family would like him to be remembered for his youth mentoring and as teacher and wrestling coach. He was a mentor in many ways. He went to Warehouse 21 to mentor students and helped youth realize the supports around him. She sent condolences to his family.

Councilor Rivera remembered Eliseo, former Fire Chief and paramedic in the Santa Fe Fire Department. He made a significant change to emergency medical service. He was an EMT and moved up during his career to be Fire Chief and for a while, was City Manager.

Councilor Lindell remembered Ms. Pike. She was always at the register at Tortilla Flats and invited you to be friends. She made everyone feel they were a part of the City family. She was a very lovely person.

Councilor Vigil Coppler also gave condolences to the family of Melinda Pike. She was a court monitor at the City Court. She was a fancy dresser and had lots of class and very kind. She also expressed condolences to the Martinez family who were related as in-laws to her family. He was her nephew.

Mayor Webber offered prayers for a dear friend, Charles Padilla, who was a financial advisor, a unity-engaged individual. He took Mayor Webber in his pickup truck around Mora and northern New Mexico and shared Mora history. He was always concerned about our community, helping people, and reaching out between Santa Fe and northern New Mexico communities.

He remembered Dick Stolly who was editor at People Magazine and was a legend in the world of magazines.

The Governing Body observed a moment of silence for those who have recently died and their grieving families.

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 Michael J. Garcia
Councilor Signe Lindell
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor JoAnne Vigil Coppler
Councilor Renee D. Villarreal

Members Excused
Councilor Jamie Cassutt

Other Participants Attending Remotely
Jarel LaPan Hill, City Manager
Erin McSherry, City Attorney
Kristine Bustos-Mihelcic, City Clerk
Kyra Ochoa, Acting Community Health and Safety Director
Regina Wheeler, Public Works Department Director
Alexandra Ladd, Affordable Housing Director
Brian Williams, Emergency Management and Safety Director
Julie Sanchez, Youth and Family Services Division Director
Melissa McDonald, Acting Parks Division Director
Jesse Guillen, Legislative Liaison

Nicole Ramirez Thomas, HDRB Liaison
Rich Brown, Economic Development Director
Daniel Hernandez, Project Director at Proyecto LLC
Sally Paez, Assistant City Attorney
Andrew Padilla, Police Chief
Carl Boaz, Council Stenographer

6. APPROVAL OF AGENDA

Item 10(m) was removed from the agenda.

MOTION: **Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the agenda as amended with item 10(m) removed.**

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

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

Against: None.

7. APPROVAL OF CONSENT CALENDAR

Councilor Abeyta asked for Items f) and s) to be removed for discussion.

Councilor Garcia asked for Items i), q) and r) to be removed for discussion.

Councilor Lindell asked for Item e) to be removed for discussion.

Councilor Romero-Wirth asked for Item i) to be removed for an amendment.

MOTION: **Councilor Rivera moved, seconded by Councilor Lindell, to approve the Consent Calendar as amended with items (e), (f), (i), (q), (r), and (s) removed for discussion.**

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

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

Against: None.

8. APPROVAL OF MINUTES

a. Regular Governing Body Minutes – May 26, 2021

Councilor Villarreal/Councilor Lindell as is – unanimous.

MOTION: Councilor Villarreal moved, seconded by Councilor Lindell, to approve the minutes of May 26, 2021, as presented.

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

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

Against: None.

b. Regular Governing Body Minutes – June 9, 2021

MOTION: Councilor Lindell moved, seconded by Councilor Vigil Coppler, to approve the minutes from June 9, 2021, as presented.

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

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

Against: None.

9. PRESENTATIONS

a. COVID-19 Update Pursuant to Resolution 2020-51. (Jarel LaPan Hill, City Manager, jlapanhill@santafenm.gov, 955-6848 and Kyra Ochoa, Acting Community Health and Safety Director, krochoa@santafenm.gov, 955-6603)
INFORMATION ONLY

Manager LaPan Hill turned to Director Ochoa.

Director Ochoa said this is the last formal COVID report, but Staff will keep the Governing Body updated. We have reports from Police, Fire, HR and overall from the Department of Health. She acknowledged the incredible

teamwork that brought us to this point. We moved to remote quickly and managed the Midtown shelter and responded to Federal and State, mandates, provided direct services in Public Utilities, Public Works, Seniors, Fire and Police Departments. She thanked all Councilors for their support and thanked hospital partners and nonprofits and businesses for their sacrifices. Her biggest thanks were to the people of Santa Fe for all of their sacrifices, for taking the pandemic seriously, for wearing masks and getting vaccinated with 69% fully vaccinated. "We found we can work together to keep each other safe."

Councilor Lindell wondered how the team got as much done as they did. It was amazing how the City came together; how people worked from home; how they kept up communications and thanks to everyone who had a fingerprint on it. And her colleagues all did their part. 87.3% are vaccinated. It was hard and we came through it.

Councilor Rivera thanked Staff, City Manager, and Director Ochoa for all their hard work on it. Councilor Cassutt deserves credit for getting information out to everyone. It is great to see these numbers and he was glad we are at a place when we can stop doing it.

Councilor Villarreal thanked Staff for taking it seriously and for State guidance also. She thanked Councilor Rivera and Councilor Cassutt for being persistent. She appreciated it all and was excited to see where we are now. It is nice to be able to see people in public. She asked on page 6 what the FEMA projects submitted for reimbursement are.

Director Williams said they put that detail in the report. FEMA projects included the shelter, city-wide DPT, Fire Dept 2, and for computers which FEMA denied but we were successful in having them reconsidered and we can still submit for more reimbursement. He explained that the funding is obligated but the City has not consummated the subgrant amendment. When the Biden administration came in, the federal share was raised from 75% to 100%. He is waiting for that change in the agreement and didn't want to keep coming back to the Governing Body with each amendment. So we are waiting until it is final to come back for approval.

Councilor Villarreal asked for further clarification on the administrative costs.

Director Williams explained the City is eligible for reimbursement of costs for managing the project worksheet process. However, his time was included in the CARES Act reimbursement so we cannot double dip.

Councilor Vigil Coppler thanked Staff for all of their work and the employees who came to work and who tried to stay home and make it work and to Veronica Garcia and her work in the schools. And our business community

to keep businesses open while complying with all emergency management rules. She regretted their loss of income, but they have endured and there is light at the end of tunnel now.

Councilor Garcia thanked the broader public for the actions they took. Even though there are variants out there, Santa Fe is not a high risk community. If we see a rise in cases, he asked if there are plans to cope with that. We know the pandemic is not completely over. He asked if the City Staff have plans, should a variant hit Santa Fe.

Director Ochoa agreed. We do have structures in place and CDC and the State are ready to address it. Ms. McSherry gives us guidance on all federal help and direction.

Mayor Webber added his appreciation for the reports and agreed we are not completely out of the woods, and we are seeing reports from hospitals, etc. Director Ochoa is part of the larger group keeping track of it and resultant behaviors on people long-term. He hoped someone would write up the tremendous work of this community. He also mentioned Manager LaPan Hill specifically who organized for coordination across departments and distribution of materials. Having served in Obama's administration, she is probably better prepared than any other City Manager in the US. He tipped his hat to her for making it possible for everyone else to do a remarkable job.

10. CONSENT CALENDAR

a. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from Vivac Winery, L.P. for the Following: (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)

1. Pursuant to §60-6B-10 NMSA 1978, Consideration of a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcohol at Vivac Winery, 625 Canyon Road, Santa Fe, which is within 300 Feet of the Quaker Meeting House, SF Religious Society of Friends, 630 Canyon Road, Santa Fe.
2. If the Waiver of the 300 Foot Location Restriction is Granted, Consideration of a Request for a Winegrower 3rd Offsite Location to be Located at Vivac Winery, 625 Canyon Road, Santa Fe.

b. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from El Maria Bonita Restaurant, LLC for a Restaurant Liquor License (Beer and Wine), with On-Premises Consumption Only to be Located at El Maria Bonita, 3565 Cerrillos Road, Santa Fe. (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)

c. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from 4250 Group, LLC for a Restaurant Liquor License (Beer and Wine), with On-Premises Consumption Only to be Located at Flying Tortilla, 4250 Cerrillos Road, Santa Fe. (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)

d. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from Markham Blankstein & Bottle, LLC, 1722 St. Michaels Dr., Suite F, for the Following: (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)

1. Pursuant to §60-6B-10 NMSA 1978, Consideration of a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcohol at Liu Liu Liu, 1722 St. Michaels Dr., Suite F, Santa Fe, which is within 300 Feet of Milagro Middle School, 1720 Llano Street, Santa Fe.
2. If the Waiver of the 300 Foot Location Restriction is Granted, Consideration of a Request for a Restaurant Beer and Wine Liquor License, with on Premise Consumption Only, to be Located at Liu Liu Liu, 1722 St. Michaels Dr., Suite F, Santa Fe.

e. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from Horno Restaurant LLC, for a Restaurant Liquor License (Beer and Wine), with On-Premises Consumption Only, to be Located at Horno Restaurant LLC, 85 & 95 W Marcy Street, Santa Fe. (Geralyn Cardenas, Assistant City Clerk, gfcardenas@santafenm.gov, 955-6519)

Ms. Bustos-Mihelcic read the caption for this case which Councilor Lindell pulled for discussion.

Councilor Lindell commented a little about this license. It is just down the street and probably you know the owners, David and Heather Sellers. David has worked with youth through SFCC and Heather with Communities in Schools. It is a brave and commendable thing to open a restaurant at this time. He encouraged everyone to support people like this doing an enterprise in this City and doing a lot to get a location, licenses, etc. she offered to meet anyone who wants to meet there for a meal.

Councilor Rivera asked if she was treating, and Councilor Lindell said yes.

MOTION: Councilor Lindell moved, seconded by Councilor Villarreal, to approve the license as requested.

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

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

Against: None.

f. Request for Approval of Volunteer Station Agreement with the Boys and Girls Club of Santa Fe, No Financial Responsibility, for the Foster Grandparent Program; Boys and Girls Club of Santa Fe. (Anya Alarid, Volunteer Program Manager: aalarid@santafenm.gov, 955-4744)
Committee Review:
Quality of Life Committee: 06/02/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

Councilor Abeyta pulled this item in order to recuse himself. He left the chambers, having recused himself. Councilor Garcia also left the chambers, having recused himself.

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

MOTION: **Councilor Lindell moved, seconded by Councilor Vigil Coppler, to approve the agreement with the Boys and Girls Club of Santa Fe, as presented.**

Discussion on the Motion:

Councilor Vigil Coppler couldn't understand the connection with the Boys and Girls Club.

Ms. Anya Alarid explained that the extension of RSVP Grandparents mentor the students at the Boys and Girls Club.

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

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

Against: None. Councilor Abeyta and Councilor Garcia were not present for the vote.

Councilor Abeyta and Councilor Garcia returned to the bench after the vote.

g. Request Approval of Amendment No. 1 to Service Contract 20-0233 with American Fire Protection Group, Inc.; Increasing the Existing Contract in the Amount of $63,274.06 Including NMGRT from $271,093.75 to $334,367.81 for Fire Monitoring, Inspections, Repair and Maintenance Services throughout City Facilities. (Caryn Grosse, Facilities Project Administrator, clgrosse@santafenm.gov, 955-5938)

Committee Review:

Finance Committee: 06/21/2021
Public Works and Utilities Committee: 06/28/2021
Governing Body: 06/30/2021

h. Request for Approval of a State of New Mexico Children, Youth and Families Department (CYFD) Amendment No. 1 to CYFD Agreement No. 21-690-3200-20846, City Contract #21-20846, to Update the Scope of Work to Reflect Updated Language, Update the Budget to Reflect Funding Information for Juvenile Justice Alternative to Detention Programs. (Julie Sanchez, Youth and Family Services Division Director, jjsanchez@santafenm.gov, 505-955-6678)

Committee Review:

Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

i. CONSIDERATION OF RESOLUTION NO. 2021-34. (Mayor Webber, Councilor Romero-Wirth, Councilor Cassutt)

A Resolution Relating to Income Disparity and Inequity; Authorizing the Execution of a Memorandum of Understanding with Mayors for a Guaranteed Income and the Santa Fe Community College to Assist with Launching a Pilot Project to Support Young Parents Enrolled at the Santa Fe Community College, and to Build Support for a Guaranteed Income in the City of Santa Fe. (Julie Sanchez, Youth and Family Services Division Director: jjsanchez@santafenm.gov, 955-6678)

Committee Review:

Introduced: 06/09/21
Quality of Life Committee: 06/16/21 (discussed)
Finance Committee: 06/21/21
Public Works and Utilities Committee: 06/28/21
Governing Body: 06/30/21

This item was pulled for discussion by Councilor Lindell and Councilor Garcia.

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

MOTION: Councilor Garcia moved, seconded by Councilor Romero-Wirth, to approve the Resolution.

Discussion on the Motion:

Councilor Garcia said at the Public Works/Utilities Committee meeting we saw what 200% looked like. $34,000 per year for a family of two is not astonishing but here in Santa Fe the cost of living is getting out of control. We need to set up systems to help people get out of poverty. He wanted to make sure we are not putting barriers in place and how it might impact those who are qualified for any benefit they currently receive, like Social Security. He asked if, when they register, they must report that additional income that might make them disqualified.

Director Ochoa said the answer is yes. That was the original thinking.

Director Sanchez said they thought about that from the beginning, and we looking at how other cities have put waivers in place, to not have this funding impacted. So we are attempting to put the waiver in place here. There is benefit counseling available to participants.

Councilor Garcia was glad to hear that. Regarding poverty guidelines, he asked if that was pretax or after tax, gross income or net income. Those are details we need to have clarified.

Director Ochoa replied that, in general, the poverty guidelines are for gross income, and Santa Fe will follow that guidance.

Councilor Garcia suggested it is good to include that in the workplan guiding this project, so we don't mislead anyone. The taxes taken out can be a great amount.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to amend the Resolution on page seven, line 14 and 15, to strike, "The City Lobbyist will promote a guaranteed income."

Discussion on the Motion:

Councilor Romero-Wirth pointed out that it was discussed at the Finance Committee meeting. Her concern was that we have a separate resolution that provides guidance to our City Lobbyist about the things we want him to be doing, which is completely focused on lobbying with the state legislature. She was not sure it was contemplating the lobbyist would go to Washington DC. Those things should be considered separately. We need to determine if our current lobbyist would be the most appropriate

person to do that. So she reasoned that using the City Lobbyist should be taken off the table for now and consider it later.

Mayor Webber explained that language was provided by the Conference of Mayors and that some cities do have a full-time federal lobbyist. So that cleans up something we don't intend to have.

VOTE: **The amendment was approved on the following Roll Call vote:**

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

Against: None.

MOTION: **Councilor Garcia moved, seconded by Councilor Villarreal, to amend the Resolution on page 6, line 9, to strike "Mayor Webber and City" and insert "Governing Body."**

VOTE: **The amendment was approved on the following Roll Call vote:**

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

Against: None.

MOTION: **Councilor Garcia moved, seconded by Councilor Vigil Coppler, to amend the Resolution on page 7, striking lines 11-13.**

Discussion on the Amendment:

Mayor Webber said if you study the history of the guaranteed income project, we have data and history on our side. He referenced President Nixon in the early 1970's. We have data on poverty and generational poverty and some of the country's leading advocates including the Rev. Martin Luther King and Robert F. Kennedy, who supported it.

Both Republicans and Democrats have advocated for a guaranteed income floor of those struggling to make ends meet and get them out of poverty. This project will provide further data. He is urging this as a federal policy, and he felt we will eventually be doing this. More than a dozen cities support it, and we are fortunate to be in a position to be one of them that are joined in this effort and advancing it as a national agenda

to people to get through the pandemic. Now is the time to put Santa Fe on record supporting this concept.

Councilor Romero-Wirth noted this pilot project was first done in California and it was quite successful.

Director Sanchez agreed. It started in Stockton, California with about 25 folks in the community and eventually expanded to 200 people. The outcomes were incredible in giving them a sense of hope, getting jobs and a meaningful career pathway. The outcomes were so great, they wanted to expand it to be a national policy. Giving hope with this kind of funding has improved the outcomes of all participants. She offered to give further data.

Councilor Romero-Wirth asked if there were about 30-40 communities.

Director Sanchez said currently there are twenty-four.

Councilor Romero-Wirth reasoned that they would validate this data and build more momentum in different communities across the country that suggests we should do it nationally.

Councilor Romero-Wirth agreed we know enough now to urge a national program and this pilot projects will continue to reinforce that. She was not sure we wanted to strike that right now.

Councilor Lindell did some research on the Stockton project. The disparities of income in this country are horrifying. She didn't' know why she wouldn't want to see people who are constantly struggling to have just a little opportunity here. That is what we want. She was particularly happy it is attached to the SFCC. She talked with President Rowley over the weekend. She explained that she was the first person in her family to get an education and she was not about to disappoint them on that. She felt strongly about this. It is important to encourage everyone to support this program to better themselves.

Councilor Villarreal asked Councilor Garcia to elaborate on his decision to delete that because she wanted a guaranteed income for poor people to be permanent and not rely on just private funds.

Councilor Garcia thought there were some deep misinterpretations of this proposed amendment. He assured her he was in support of guaranteed income type program. When we advocate for something, we need to back it up our advocacy the status. This project is unique in working with a college. Stockton was not associated with a college. What happens if this program falls flat and ends with egg on our face?

This amendment doesn't oppose success of government sponsored guaranteed income programs throughout the country. He thought the Governing Body was in agreement on that. His concern was where it stops and legalizing without knowing the impact on our city. We should be advocating on the strongest foundation. Otherwise, it is not good government.

We need to take the steps before urging the President to take them. We should not urge anyone unless we have the data from Santa Fe, not Stockton and not 30-40 years ago. It by no means disregards this program. He wanted to cosponsor the program but felt we need the data to support our advocacy and to use our own local data. This is basically a template provided from the organization and we need this to make it work for us. He wanted to make sure we have the data to support the urge.

Councilor Villarreal noted this language (in the "Be it Further Resolved) is a general statement that is a little out of context. It should really be about this project.

Mayor Webber replied that there are two threads intertwined in the resolution and our participation in the pilot project. As a City that is participating in the guaranteed income effort around the country, Santa Fe is both supporting at the national level to provide guaranteed income as support for people in need. Just like years ago that was done in Social Security for Seniors.

It is not universal income that some people have confused it with, but a specific base of support to deal with poverty and racial injustice. It is supported by our pilot and other pilots around the community. Each one has a different model to make guaranteed income an uplifting opportunity for people trapped in poverty.

He said the aspiration at the national level is something to believe in. All are efforts by progressive people in our country on the disparity that keeps some people down. It is a request to add this to the national agenda of trying to lift people out of poverty and give them opportunity. He supports that as national public policy and our own pilot project to demonstrate the link between a guaranteed income and the targeted population that would benefit in this community specifically. They are intertwined but slightly different aspirations.

Councilor Abeyta said, for the record, that he supports federally guaranteed income for those who need it the most. As a Councilor who represents an area of City who could benefit from this, he supports the resolution as written.

VOTE: The motion on the Second amendment was defeated on the following Roll Call vote:

For: Councilor Garcia.

Against: Councilor Abeyta, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler, Councilor Villarreal, Mayor Webber.

MOTION: Councilor Garcia moved, seconded by Councilor Romero-Wirth, to amend the Resolution on page 7, line 18, to insert "and" and "the City Lobbyist."

Discussion on the Amendment:

Councilor Garcia pointed out that the city does not have a lobbyist advocating for this at the federal level. However, we could bring in a lobbyist, if needed.

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

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

Against: None.

Discussion on the Resolution as amended:

Councilor Romero-Wirth noted there are some ripple effects of supporting the people identified here. We should point out that a guaranteed income could support attaining their educational goals to get a job. It probably also helps the other people in their lives – their kids, for instance, for a better home life, less worried and perform better at school. It should have ripple effects to the broader family and the community.

Councilor Villarreal said, as a cosponsor, she supports a guaranteed income to fight generational poverty. This is a small step to curb the generational wealth gap in our country and our City. She acknowledged that there are racial and economic disparities and is why we have a generational wealth gap. So she supports income for those families that they can depend on.

Mayor Webber thanked all Staff who helped make this resolution happen. It is a brilliant proposal. Director Sanchez and Director Ochoa did an enormous amount of work and SFCC who all deserve a big thank you for their tireless efforts. Regarding the policy itself, we are all tired of seeing New Mexico as 49th or 50th in the nation for childhood wellbeing. We need a transformational change. There is great disparity in the country and in Santa Fe that won't change without being addressed.

In Stockton, the people involved not only got better jobs but there was better mental health in their family and the ability to take control of their lives and futures. We want independent families not hindered by poverty's roadblocks.

This pilot and guaranteed income as national policy takes that on. It is comparable to many such efforts in the past. It speaks to parents who for too long have had to make a choice between their own education or taking care of their families. It is a tradeoff nobody should have to make. As they get their education, their diploma, or certificate, they will be better off, and their children will be better off. And the ripple effects will be substantial across all parts of the community. It is a bold and progressive step for our community. Mayor Webber said he was excited to stand behind it and promote and grow it as the time for this kind of direct action. And to put us on the map as first City in New Mexico to take on such a pilot project.

Councilor Garcia and Councilor Vigil Coppler asked to be added as cosponsors.

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

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

Against: None.

j. Request for the Approval of the Amendment No. 1 to Contract 19-0822 to Increase Amount by $17,500.00 in the Total Amount of $147,465.65 and Extend the Term from June 30, 2021, to June 30, 2022. (Porfirio Chavarria; pnchavarria@santafenm.gov; 505-955-3119)

Committee Review:

Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

k. Request for Approval of RFP #21/32/P the Total Amount of $1,140,308 for Utility Bill Prints, Postage and Insert Information, for 4 years; Valli Information Systems Inc., DBA Postal Pros Southwest; (Nancy L Jimenez, Utility Billing Division Director, nljimenez@santafenm.gov, 505-955-4364)
Committee Review:
Public Works and Utilities Committee: 06/07/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

l. Request for Approval of Sole Source Procurement for Project Management, Application Support and Technical Support for 4 years with Mountain River Consulting Inc. in the Total Amount of $1,422,000. (Nancy L Jimenez, Utility Billing Division Director: nljimenez@santafenm.gov, 505-955-4364)
Committee Review:
Public Works and Utilities Committee: 06/07/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

m. Request for Approval of Amendment #3 to PSA #19-0234 with Carollo Engineers, Inc. to Extend the Term for One More Year Through June 30, 2022. (William Schneider, Water Resources Manager: whschneider@santafenm.gov, 955-4203)
Committee Review:
Public Works and Utilities Committee: 06/07/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

n. Request for Approval of County Partnership in the San Juan Chama Return Flow Project. (Jesse Roach, Water Division Director, jdroach@santafenm.gov, 955-4309; Marcos Martinez, Assistant City Attorney, mdmartinez@santafenm.gov, 955-6502)
Committee Review:
Public Works and Utilities Committee: 06/07/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

o. Request for the Approval of Amendment No. 3 to the PSA with Vladimir Jones in the Total Amount of $1,450,000 for Advertising Agency Services for Tourism Santa Fe for FY22. (Randy Randall, Tourism SF Director: rrandall@santafenm.gov,505-966-6209)
Committee Review:
Public Works and Utilities Committee: 06/07/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

p. CONSIDERATION OF RESOLUTION NO. 2021-35. (Councilor Vigil

Coppler, Councilor Cassutt, Councilor Garcia, and Councilor Villarreal)
A Resolution Supporting the Tenth Annual Neighbor to Neighbor Fund Drive. (Jesse Guillen, Legislative Liaison: jbguillen@santafenm.gov, 955-6518)

Committee Review:

Introduced: 6/9/21
Quality of Life Committee: 06/16/21
Finance Committee: 06/21/21
Governing Body: 06/30/21

q. CONSIDERATION OF RESOLUTION NO. 2021-36. (Mayor Webber, Councilor Vigil Coppler, Councilor Romero-Wirth)
A Resolution Donating Property Identified as 635 Alto Street and Resources to a Developer Qualified as a "Grantee" Under the New Mexico Affordable Housing Act for Development of at Least Five (5) Low-Priced Dwelling Units. (Alexandra Ladd, Office of Affordable Housing Director: agladd@santafenm.gov, 955-6346)

Committee Review:

Introduction: 06/09/21
Community Development Commission: 06/16/21
Quality of Life Committee: 06/16/21
Finance Committee: 06/21/21
Public Works and Utilities Committee: 06/28/21
Governing Body: 06/30/21

Councilor Garcia pulled this item for discussion.

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

No motion or second was made prior to this discussion.

Councilor Garcia said at the Public Works Committee meeting on Monday, it was explained to the Committee that the cost of construction per square foot at $300 now. We want to be able to provide opportunities to help people enter home ownership at the lowest cost possible. The real estate market is "fire hot" right now as well as the construction market and construction materials market right now. So housing is the most expensive in has ever been. If we were to hold off but have it on the shelf to allow prices to cool down and become more affordable, that would help our community. So he had asked Director Ladd if that would be preferable. His answer was that it was a question for the sponsors to answer.

So his question was to either Mayor Webber, Councilor Vigil Coppler or Councilor Romero-Wirth.

He asked why the Governing Body would want to rush this at a time when housing costs are the highest and these five units could go to five families at a lower cost if the city waits for the market to cool down. These homes definitely need to go to those most in need and provide an entryway to home ownership in one of the most desirable parts of our community. He asked that to the sponsors.

Director Ladd clarified that the request for qualifications would not dictate what kind of housing to have the market drive it. Secondly, the cost of the housing will not change based on the cost of producing the housing but on the area median income. It has nothing to do with cost of construction.

Councilor Garcia that does make sense. That was different from his recollection. He recalled Director Ladd said it would not be affordable housing but low cost housing because of the high cost of construction.

Director Ladd clarified that was correct to the extent that this construction would allow the market to respond. If we followed affordable housing guidelines, we would have one very affordable house and four at market price. But as low cost homes, all five would be a low cost. The response of marketplace with one very affordable would be to raise the price further of the unrestricted homes. While it is great to have the home on the market, we don't want to raise the value of the unrestricted homes. So, waiting a year would just mean five families would not have housing until the year had passed.

Councilor Garcia wanted to make sure we are getting the best investment we can out of this property, and an opportunity for people to live in a very desirable place in our City. We don't' see affordable options downtown in Santa Fe. He asked if the low-priced houses will be sold by the developer.

Director Ladd explained the process of the RFQ outlined in the resolution described how it would work. We make this lot available to a qualified developer who, in turn, will sell or rent homes to income-qualified individuals who meet the standards set out in City Code 26-2.

Councilor Garcia asked what agreements for rent are in place. Would the rent be at market rate, lower than market rate, or something else?

Director Ladd said that is all spelled out in the same City Code Chapter 26-2. The rent is set at 100% of median income for rent in that neighborhood. The qualified renter could not make more than 120% of area median income. The qualification criteria are the same and in how the cost of the home is determined.

Councilor Garcia asked how long that rate would remain.

Director Ladd said it would follow the guidelines in Chapter 26-3. She believed it was for a period of 25 years, but the City can negotiate whatever term we would want.

Councilor Garcia asked when the negotiating would take place.

Director Ladd said it would be done during the entitlement period.

Councilor Garcia requested that as we enter these agreements, should the developer go the long-term rental route, that the restrictions are in place. As long as they are sound and livable places, we should do everything we can to keep them low cost.

He had no further questions.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the Resolution as presented.

Discussion on the Motion:

Councilor Vigil Coppler asked Director Ladd about the documentation related to five homes and then goes either to rental or home ownership and changes to multi-unit structure on page 3, line 12, and she automatically thought of rental. If not single family homes, she asked how multi-unit was defined.

Director Ladd pointed out that if you went to Alto Street at that location, there are multi-unit compounds on both sides of the property. Larger properties had them with home ownership. This lot is only a quarter-acre in size. The units can be “condo-ized.” Those are all over downtown.

Councilor Vigil Coppler asked how it will be publicized.

Director Ladd said the City is asking a potential builder to respond to the competition down in 2005 showing a multi-unit structure. Anyone building this type homes will recognize it can be either a rental or a condo.

Councilor Vigil Coppler thought keeping them between $275 and $300 per month, it would involve an HOA. She asked if the HOA costs would be included or separate.

Director Ladd said with an HOA, the price is adjusted so the total monthly payment is still within the 120% guideline affordability for the home buyer.

Councilor Vigil Coppler noted the prices in this market are enormously high and indications are they will be around for a year or so and then maybe it will stabilize. So if the builder pays higher prices for materials, if built now but later probably would cost less. Every builder does a financial calculation on their costs and profit they can make. And a price of $270,000 to $300,000 would take quality out of the house, to make their costs back. It might be great to say they will donate the land. but we have an opportunity to decide when it might be best bang for the buck. Too often – as we know, you can point your finger to every house that was affordable – dumbed down, not attractive, etc. Some just have porches with 2x4's holding them up. She thought it riskier to build now. The costs are astronomical. She didn't want to end up with a multi-unit structure where we could have had a better opportunity later.

Right now is probably not the best time. She did not. We have substantial building going on right now and would have an opportunity to put people in real homes. There is just a lot of benefit to home ownership. Many things have been written about that. As a cosponsor, we wanted to offer real homes and make an impact on it rather than rental units.

The other question was on the term of help in this resolution. It takes about 45 years, but Director Ladd talked about 25 years. She asked Director Ladd to explain the difference.

Director Ladd thanked her for pointing that out. She was just quoting the Code and the bare minimum for affordability terms. It will be 45 years. She explained we need to have affordable rental options in our marketplace as ownership options.

Councilor Vigil Coppler thought 45 years was better.

Councilor Lindell talked about a person who got a house under these guidelines and how home ownership had changed their lives. She felt that waiting to do this doesn't help. She pointed out the City has had this property for over ten years. She recalled the affordable homes were well built. If it does not work for builders now, we won't get proposals. She couldn't wait to see what gets proposed. The designs shown at the Post Office had creative uses of space. It is crucial to have rentals and she thanked Director Ladd for enlightening her.

Mayor Webber talked about how his parents who had been renting an apartment and how they coped with not having sufficient financial resources but succeeded. He said, "In several respects, to wait is unimaginable to me." This is a pilot project just like guaranteed income and he could not support hurrying up and waiting.

Councilor Garcia said his intention was to ensure we get best use of our resources. He stood up for Councilor Vigil Coppler's opinions on it.

Councilor Vigil Coppler observed that everyone in the US dream of home ownership. It is a dream for everyone. Our residents are not crying for more rentals but home ownership. The goal should be permanent home ownership here and she would like to see that. And if it can't be done now, we should not dismiss the fact that we could create five homes here. That should be the number one goal if we can make it work. That was the goal on Siler Road. If it possible, we can do it. She asked if the RFQ would have any vetting before coming to Governing Body.

Director Ladd said this will follow the procurement process which does not require the RFQ to come to Governing Body.

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

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

Against: None.

Councilor Romero-Wirth said she was a cosponsor.

r. Request for the Approval of Fiscal Year 2022 Grant Contract in the Total Amount of $304,000 for the Foster Grandparent, Senior Companion, and Retired Senior Companion Volunteer Programs; State of New Mexico Aging and Long Term Services Department. (Anya Alarid, Volunteer Program Manager aalarid@santafenm.gov, 505-955-4744)

Committee Review:
Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

Councilor Abeyta pulled this item for discussion. He and Councilor Garcia were recused from consideration of this item and left the chambers.

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

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Vigil Coppler, to approve the Contract as presented.

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

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

Against: None. Councilor Abeyta and Councilor Garcia were not present for the vote.

After the vote, Councilor Abeyta and Councilor Garcia returned to the bench.

s. Request Approval of Contract with the National Fitness Council, LP. in the Amount of $195,560.94 Including NMGRT to Purchase Equipment Exclusive Keith Haring Artwork Fitness Equipment and Request Approval of BAR in the Amount of $250,000.00 from Neighborhood Parks Impact Fees to Parks Construction for the Purchase and Installation of Fitness Equipment for SWAN Park. (Melissa McDonald, Acting Parks Division Director: mamcdonald@santafenm.gov, 955-6840)
Committee Review:
Finance Committee: 06/21/2021
Public Works and Utilities Committee: 06/28/2021
Governing Body: 06/30/2021

Councilor Abeyta pulled this item for discussion.

Pauline Kamiyama and Melissa McDonald were present.

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

Councilor Abeyta thanked Staff for this project. He noted that in the history of SWAN Park, it was originally supposed to be much larger than it is now, and this equipment was requested by the residents there. He asked when installation is likely to take place.

Director McDonald said it would be late July or early August.

MOTION: Councilor Abeyta moved, seconded by Councilor Romero-Wirth, to approve the Contract as presented.

Discussion on the Motion:

Councilor Garcia asked Director Kamiyama about the award letter that had a stipulation that the resolution must be introduced within sixty days to be awarded the resources. He asked if the City has not been disqualified from those resources.

Director Kamiyama said that was correct. They have been much more flexible on that and when we are ready for the second one, we will work with the National Fitness Campaign again.

Councilor Garcia thanked her and Director McDonald for this. He believed it is great equipment and will be wonderful for the south side. He hoped the City can replicate that equipment in other locations.

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

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

Against: None.

t. Request for Approval of the Allocation for the 2021-2022 Affordable Housing Trust Fund (AHTF) and the Attached Contracts Awarded in Response to RFP #21/25/P Totaling $1,225,000. (Alexandra Ladd, Director of Office of Affordable Housing: agladd@santafenm.gov 505-303-9868)
Committee Review:
Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

u. Request Approval of 2021-2022 Community Development Block Grant (CDBG) Contracts Awarded in Response to RFP #21/24/P in the Amount of $556,067, Plus Program Administration $124,619. (Alexandra Ladd, Director of Office of Affordable Housing: agladd@santafenm.gov, 505-303-9868)
Committee Review:
Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

v. Request for the Approval of the Agreement for Animal Confinement, Care and Disposal Between the Santa Fe Animal Shelter and Human Society, Inc. and the City of Santa Fe in the Total Amount of $529,231.80 for the Confinement, Care, Maintenance and Disposal of Stray and Impounded Animals for a Period of Three (3) Years from the Time of Approval by Both the City of Santa Fe and the Santa Fe Animal Shelter and Humane Society, Inc. (Ben Valdez, Deputy Chief of Police: bpvaldez@santafenm.gov, 955-5040).
Committee Review:
Public Safety Committee: 06/15/21

Quality of Life Committee: 06/16/21
Finance Committee: 06/21/21
Governing Body: 06/30/21

w. Request for Approval to Submit for Review to the US Department of Justice, Office of Justice Programs, Certifications and Assurances by the Chief Executive of the Applicant Government. (Andrew Padilla, Chief of Police, Police Department, aapadilla@santafenm.gov, 955-5102)

Committee Review:

Public Safety Committee: 06/15/2021
Quality of Life Committee: 06/16/2021
Finance Committee: 06/21/2021
Governing Body: 06/30/2021

x. Request for Approval of a Memorandum of Understanding (MOU) Munis Contract #3202749 Between the City, NMDOT, NCRTD and Santa Fe MPO Detailing the Responsibilities of Each Agency to Satisfy the Federal Transit Authorities Funding Process. (Erick Aune, MPO Officer, ejaune@santafenm.gov 505-330-8483)

Committee Review:

Finance Committee: 06/21/2021
Public Works and Public Utilities Committee: 06/28/2021
Governing Body: 06/30/21

y. Request for Approval of Amendment No. 4 to the Professional Service Agreement (PSA) with Certified Folder in the Amount of $50,000 for Distribution of the Official Santa Fe Visitor's Guide for FY22. (Randy Randall, TOURISM Director, rrandall@santafenm.gov, 505-955-6209).

Committee Review

Finance Committee: 06/21/2021
Public Works and Utilities: 06/28/2021 Governing
Body: 06/30/2021

z. Request for Approval of Amendment #3 to PSA with Lou Hammond in the amount of $125,000 for Public Relations Services for Tourism Santa Fe for FY22 (Randy Randall, TOURISM SF Director, rrandall@santafenm.gov, 955-6209)

Committee Review

Finance Committee: 06/21/2021
Public Works and Utilities: 06/28/2021 Governing
Body: 06/30/2021

aa. Request for Approval of Collective Bargaining Agreement Between the City of Santa Fe and Santa Fe Firefighter Association Local 2059 for July 2021 Through July 2024. (Paul Babcock, Fire Chief; prbabcock@santafenm.gov,

955-3110 and Brian Moya, Assistant Fire Chief; bjmoya@santafenm.gov, 955-3111)

Committee Review:

Finance Committee: 06/21/2021
Public Works Committee: 06/28/2021
Governing Body: 06/30/2021

ab. Request for Approval of the Collective Bargaining Agreement Between the City of Santa Fe and the Santa Fe Police Officers Association for FY22. Contract Includes Salary Increases in the Amount of $423,039 for Sworn and Civilian Bargaining Unit Employees. (Ben Valdez, Deputy Chief of Police, bpvaldez@santafenm.gov, 955-5040)

Committee Review:

Public Safety Committee: 06/15/21
Quality of Life Committee: 06/16/21
Finance Committee: 06/21/21
Governing Body: 06/30/21

ac. Request for Approval of Amendment No. 3 to the Collective Bargaining Agreement Between the City of Santa Fe and Local 3999 City of Santa Fe Employees of the American Federation of State, County and Municipal Employees, Council 18, AFL-CIO. (Bernadette Salazar, Human Resources Director, bjsalazar@santafenm.gov, 505.955.6591)

Committee Review

Finance Committee: 06/21/2021
Public Works: 06/28/2021
Governing Body: 06/30/2021

ad. **Request to Publish Notice of Public Hearing on July 28, 2021.** Consideration of Bill No. 2021-14. An Ordinance Amending Section 23-6.2 SFCC 1987 to Remove the Six-Month Minimum Lease Duration for the Sale and Consumption of Alcohol on City Property. (Councilor Lindell and Mayor Webber) (Randy Randall, TOURISM Santa Fe Executive Director: rrandall@santafenm.gov, 955-6209; Rich Brown, Community and Economic Development Department Director: rdbrown@santafenm.gov, 955-6625 and Jesse Guillen, Legislative Liaison: jbguillen@santafenm.gov, 955-6518)

Committee Review:

Introduced: 05/12/21
Quality of Life Committee: 06/16/21
Public Works and Utilities Committee: 06/28/21
Governing Body (request to publish): 06/30/21
Economic Development Advisory Committee: 07/14/21
Governing Body (public hearing): 07/28/21

ae. Request for Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of $1,000,000.00 from the 2018 Bond Premiums to be Used for the Santa Fe Train Depot Exterior Rehabilitation Project. (Sam Burnett, Interim Facilities Division Director, jsburnett@santafenm.gov, 505-795-2491)

Committee Review:

Finance Committee: 06/21/21
Public Works and Utilities Committee: 06/28/21
Governing Body: 06/30/21

11. **DISCUSSION/ACTION ITEMS**

a. Request for Approval of Budget Adjustment Resolution (BAR)in the Amount of $725,000.00 from the 2018 Bond Premiums to be Used for the Genoveva Chavez Leisure Pool, the Main Library Elevators and Tennis Court and Pickle Ball Improvements at Select City Parks. (Sam Burnett, Interim Facilities Division Director, jsburnett@santafenm.gov, 505-795-2491)

Committee Review:

Public Works Committee: 06/28/2021
Governing Body: 06/30/2021

Ms. Bustos-Mihelcic read the caption for this item. She noted that Directors Burnett and Wheeler were present to answer any questions.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the BAR as presented.

Discussion on the Motion:

Councilor Villarreal supported this effort and asked Director Burnett which tennis courts will be resurfaced.

Director Burnett believed they were the courts at the Ft. Marcy facility but might be corrected.

Director Wheeler said the Department's goal is to use the capital appropriations from the Legislature to include all City tennis courts. Martinez and Larragoite need a complete reconstruction. She didn't have the list with her.

Director McDonald said they will begin with Ft. Marcy and then work through the list of needed courts. They want to do all 19 tennis courts –

all except Martinez and Larragoite. All of them need resurfacing and will proceed from the most necessary ones first.

Councilor Villarreal understood Larragoite, and Martinez courts were anticipated in the fall.

Director McDonald agreed.

Councilor Vigil Coppler recalled that for Martinez, the Governing Body talked many times about its condition. There were pictures submitted by a tennis coach about that court. It is full of giant sized potholes. If residents continue to use it, we could have liability. She asked if there was consideration to close those courts.

Director McDonald said they did consider it and could do so again. Right now she felt it was okay to keep them open and actively consider concrete instead of asphalt.

Councilor Vigil Coppler support that choice. Perhaps our Safety Officer needs to comment on it. It is a fast sport and people concentrate on the ball and not their footing and with that many holes, a person could break an ankle, fall, etc. Children use those a lot. We need another opinion on it. It worried her.

Mayor Webber wondered how long it had been since the City did that. We've heard for years that pickleball is the fastest growing sport in America. Tennis has often been a neglected investment. He asked how long it has been for Santa Fe. He asked for it to be researched and to let him know what it is. He commented that the City is finally taking care of overdue business. He thanked the Staff for finding the money to do it.

Councilor Romero-Wirth thanked Staff for noticing the pickleball community and making space for them in our facilities.

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

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

Against: None.

b. Request for Approval of Budget Adjustment Request (BAR) to Move Funds for the Solar and Streetlighting Contracts into Budget Fund 315 (CIP

Resources). (Javier Rosado, Engineering Division Director: jhrosado@santafenm.gov, 955-6631 and Caryn Grosse, Facilities Project Administrator: clgrosse@santafenm.gov, 955-5938)
Committee Review:
Public Works & Utilities – 06/28/2021
Governing Body – 06/30/2021

Ms. Bustos-Mihelcic read the caption for this item. She said Director Rosado and Ms. Grosse were available for questions.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Rivera, to approve the BAR as presented.

Discussion on the Motion:

Councilor Garcia asked to clarify if this was what included retrofitting in phases.

Director Wheeler explained the Department developed a methodology for community communication on screening or dimming to deal with over or under lighting on the street and the result would be brought to the Governing Body on July 14.

Councilor Garcia was concerned about having it in phases and noted Councilor Villarreal had made a motion to implement it in phases.

Director Wheeler said the City will appropriately light each street. The design is a progressive design with lowest Kelvin and comfort lenses to reduce glare, so every segment of every street is categorized properly. She used Agua Fria as an example with differentiated levels per segment. The motion was to get community feedback in the process and that is what will be presented on July 14.

Councilor Garcia restated the motion in May was to implement this in phases and after phase 1 to have an assessment done and that is opposite of what Director Wheeler just said. The Governing Body gave direction and what she said doesn't reflect that. He will research those minutes further.

Councilor Villarreal did not think the word "phase" was used but that each section would be evaluated before and after to understand what changes look like. That does slow down how the retrofit appears in that section before moving on to next section. It would actually be a phase.

Director Wheeler agreed. And that is what the contractor has been instructed to do for each section. There will be opportunity for feedback. Dahlkia will be here to receive the feedback for the duration.

Mayor Webber pointed out that this is a BAR request and not related to how the project will be implemented. This is not a management oversight but just a financial transaction.

Director Wheeler agreed. It just moves the money to use to pay what we owe. We are just doing what the Governing Body has already approved with the contract.

Councilor Garcia asked when the appropriate time would be to ask his question and if it would be on July 14.

Director Wheeler clarified that on July 14, she will bring the amendment to incorporate the community guide for approval and what community engagement process will be. The design was approved, and she offered to meet with Councilor Garcia ahead of that Governing Body meeting.

Councilor Garcia thanked her for that.

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

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

Against: None.

c. List of Housing Proposals and Recommendations to be Considered in the Months Ahead, and their Respective Proposed Assignments to City Council Standing Committees, Pursuant to Resolution 2021-23, Which Established a Work Plan for Improving Access to Affordable Housing Opportunities for Residents of the City of Santa Fe. (Jarel LaPan Hill, City Manager, jlapanhill@santafenm.gov, 955-6848)

Ms. Bustos-Mihelcic read the caption for this item. **Information Only.**

Manager LaPan Hill presented the list of Council assignment to Council Standing Committees for housing projects to the Governing Body.

Councilor Vigil Coppler said she didn’t get a chance to read the email that was sent today and was not prepared to comment if the Governing Body is to review it now.

Manager LaPan Hill said the assignments were sent on June 8. She offered to read them.

Councilor Vigil Coppler asked why they were not loaded onto PrimeGov for the public to see.

Mayor Webber agreed with screen sharing and the list could be read aloud.

Manager LaPan Hill read the assignments aloud.

Mayor Webber noted there was also material provided in the past that identified the sources for those referrals. It would use this committee structure for dialog in a study session where the Governing Body can assess the opportunities, prioritize them, etc.

Councilor Garcia recommended regarding the GO bond that, given the timing of this and if we wanted to implement something in the fall, that should be first on the list. There were a number on STRs. He recalled a proposal made by Councilor Vigil Coppler last December. We are clear where the finances are now and should bring back that proposal. We need to add it on here somewhere. The social impact should be first at the Quality of Life Committee. Those were his recommendations.

Councilor Romero-Wirth didn't think the number indicated the order in which they would have been listed. The Finance Committee, at the last meeting, had a lengthy discussion on bonds, GO bonds, and what it would take and concluded there is a lot of work that has to be done and not positioned to do that in the fall. The Mayor had said these are the different proposals that came from the task force when he became mayor and had ideas for funding and a memo from Mike Loftin and all of that was in the June 8 email.

The Social Impact Bond, heard at QOL, would require legislative action. They are at QOL for getting folks outside the City Help us understand the potential and why the tax exemption or cap was put on second homes was not getting action legislatively. The matters at QOL all require legislative action. The three Committee Chairs will weave this list into their agendas. QOL agendas are organized far in advance. These take time and we have time for them.

She observed the fiscal year is ending today, and the Governing Body put $3 million into the AHTF. So the floor/ceiling for that fund is set and there is time to properly vet all of these ideas.

Councilor Garcia said that demonstrated his concern. These are silos and he didn't attend that meeting where it was considered. If Councilors all know the agenda items in advance, we can all participate. He had to go back and look at the video and had no chance to ask questions. We do need to prioritize the list. He was glad to hear the funding for AHTF but when he had advocated for it, there was pushback. The broader public should have opportunity to fully understand the roadmap.

On Monday, the Public Works/Utilities Committee had a public hearing for which the public was not properly notified. This is where we need to develop that roadmap. If this is not prioritized, we need to do that now. This is where we should have had a work/study session to prioritize them. Now to hear it is at the will of the Chairs, doesn't allow for others to have input into the process. He wanted the STR revenues to be put in the AHTF.

Councilor Vigil Coppler found this list to be very exclusionary. Everyone but her had a chance to vote on all of it, but she only had a chance to vote on one and two. So once again, she was being excluded from a majority of these topics. It is unbelievable for this to happen at the Governing Body and if anyone else was in the same position, it would affect them. So once again, she was only able to vote on just two little items. This needs to be changed. She did bring forth an ordinance change on affordable housing. Here it is again, and she fully supported it. But this list is very exclusionary, and she was the one excluded.

Councilor Romero-Wirth said she was starting where Councilor Vigil Coppler left off. The Governing Body approved Resolution 2021-3, creating a work plan and it passed unanimously. This is the work plan, and it was not trying to exclude anyone. It brings the possible sources for funding the $3 million to the AHTF. It is really important to move the needle. According to the Resolution, we would use the standing committees and there would be staff memos and PPTs at each of them and we can watch them on Youtube or participate in them.

She invited Councilor Vigil Coppler to look back at the resolution which she read aloud. It also said a study session would be held to review and consider short, medium and long-term goals. The resolution also addressed the silo issue. She mentioned revenue from cannabis and what the City needs to do with that. We should take the time to analyze all of them and she hoped her statement clarified the matter.

She noted that things can be added at this meeting for the possible revenue sources.

Councilor Vigil Coppler thanked Councilor Romero-Wirth for her review. She recalled it would be a fair process and at that meeting she reminded

the Governing Body that she was on only one of the standing committees. She trusted and did not propose any amendment.

Councilor Romero-Wirth said the Governing Body doesn't vote on them.

Councilor Vigil Coppler pointed out that, whether an action item or a discussion item, by design, Public Works only had two little items. She noted that watching videos didn't allow her to participate and even if she watched on Zoom, she still didn't' get to vote.

Mayor Webber agreed these are just discussion items until the study session and then a full group undertaken. They are purely a matter of evaluating pros and cons. The assignments are the most appropriate assignments. Everyone is invited to all committee meetings, and they were not action items. They were all discussion items.

Councilor Vigil Coppler said whether voting or discussing, it was still exclusionary. She welcomed Manager LaPan Hill to have an open mind and reconsider the list.

Councilor Abeyta asked of now was the time for a recommendation.

Manager LaPan Hill agreed, and we will amend it.

Councilor Abeyta asked for Cannabis at Finance listed.

Councilor Villarreal determined it will require all of us to do more work. She will attend Public Works Committee to learn more about those topics. We have hefty agendas and topics in depth. For any further items on AH, it would be helpful for every committee to hear.

Councilor Romero-Wirth requested what was heard at Finance be captured in a Staff memo so all Councilors would have the knowledge and understanding in order to approve the finance sources, and all have a vote on them. Each committee and staff presentation are a lot of work. We cannot have Director Ladd doing bond memos, but the bond counsel can.

Councilor Villarreal was worried about Staff capacity, and some are beyond our Staff's expertise. We must be realistic about that. We haven't been told the information about cannabis. No one has spoken on it. We are way off track and behind. There are no land use regulations related to cannabis.

Councilor Romero-Wirth said this does not need action tonight.

Mayor Webber agreed and it will be brought back.

At about 7:30 p.m. Councilor Rivera said it was time to consider Petitions from the Floor.

Amendment to the Agenda

MOTION: **Councilor Rivera moved, seconded by Councilor Lindell, to amend the agenda by suspending the remaining afternoon agenda and move to the Evening Agenda at this time, and return to the Afternoon Session afterward.**

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

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

Against: None.

The Governing Body went to evening session at this point.

EVENING SESSION - 7:35 P.M.

17. **ROLL CALL**

Members Present Remotely
Mayor Alan Webber
Councilor Roman "Tiger" Abeyta
Councilor Jamie Cassutt
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

18. **PETITIONS FROM THE FLOOR**

Stefanie Beninato, P.O. Box 1601, observed that a month ago [May 12, 2021], the Governing Body had an appeal hearing on the 314 Guadalupe Street property, and it was a case on how the front lot would impact the front view of the house. The appellants talked about being productive citizens and integrating into the community. The Governing Body granted their appeal. A few days ago, that

property went on the market for $925,000. If we really value our history, we should value the historic preservation ordinance and the actual streetscape harmony.

She also mentioned an incident where several people showed up for the 8:00 session and were turned away.

There were no other petitions from the floor.

19. **APPOINTMENTS**

a. Veterans' Advisory Board
   i. Brian Wempen – Appointment – Term 05/2023
   ii. Sylvia Gullingsrud – Appointment – Term 05/2023
   iii. Anna Vigil – Reappointment – Term Ending 05/2023
   iv. John Palamino – Reappointment – Term Ending 05/2023
   v. Colonel James Williams – Reappointment – Term Ending 05/2023
   vi. Sigrid Hannah Mabel – Reappointment – Term Ending 05/2023

Ms. Bustos-Mihelcic read the nominees for the Veterans' Advisory Board.

MOTION: **Councilor Romero-Wirth moved, seconded by Councilor Villarreal, to approve the nominations for the Veterans' Advisory Board as presented.**

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

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

Against: None.

b. Community Health and Safety Task Force
   i. Annie Rasquin – Appointment – Term will Expire Upon Completion of Duties and Responsibilities

Ms. Bustos-Mihelcic read the appointment for Community Health and Safety Task Force.

MOTION: **Councilor Vigil Coppler moved, seconded by Councilor Villarreal, to approve the appointment to the Community Health and Safety Task Force as presented.**

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

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

Against: None.

20. **PUBLIC HEARINGS**

a. Appeal #2021-3450-APPL of Case #2021-3185-HDRB. Appeal by Julia Burt of the Historic Districts Review Board's Decision to Impose Conditions of Approval on an Application to Install Two Gates Constructed of Oxidized Steel, Including a Pedestrian Gate and a Vehicular Gate, at 1299 Upper Canyon Road, in the Downtown and Eastside Historic District. (Sally A. Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

Mayor Webber recused himself and left the chambers.

There were no other disclosures.

Mayor Pro Tem Lindell chaired the meeting for this item.

Ms. Bustos-Mihelcic read the caption for the public hearing.

Staff Report

Ms. Paez presented the Staff Report. She asked Zoom host to admit the agent for the Appellant, Ms. Sandra Donner, the property owner, Ms. Julia Burt and Ms. Nicole Ramirez Thomas, Division Manager.

Ms. Burt was with Ms. Donner.

Ms. Paez explained this appeal of a decision made by the Historic Design Review Board and a quasi-judicial procedure where Governing Body members act as judges in a court of law and apply8ing the Santa Fe City Code to the facts and evidence presented. The Governing Body reviews the decision made by the H Board, de novo, and might hear additional information, materials and further instructions for the decision.

Members of the Governing Body are required to have a majority of five voting in favor to accomplish a decision.

Ms. Paez used a PPT, pointing out the location of the property on a city map with several views of the property. She focused on the two items being appealed, a pedestrian gate of oxidized steel and a new vehicular gate of oxidized steel about 35' back from property line. A drawing showed the location of the pedestrian gate which is to be moved a little bit to the west. The tree shown was no longer there. A simulated photo showed new gates. The pedestrian gate will replace the latilla gate with oxidized steel and the stuccoed wall was already approved.

A sample of the material was submitted to the H Board. The Board approved the application with two conditions of approval: That the owners were required to have wood for the pedestrian gate and to incorporate latillas on the vehicular gate. The Appellants' claim was that there was no legal basis for the condition and the H Board did not have authority to make the conditions.

The H Board found the design was not harmonious with Santa Fe Style in the Downtown and Eastside Historic District. The H Board relied on the Wall and Fence Guidelines on fence design that encourages fenestration with open gates as opposed to solid gates.

She shared pictures of nine other gates in the Appellant's supplemental materials.

She suggested the Governing Body consider the design of the gate and noted some other gates be considered for similarity of design and materials and then recapped the two issues on appeal.

Her decision tree showed two motion options – to grant the appeal or to deny the appeal.

Mayor Pro Tem Lindell noted the options are on page 6 of page 66 and asked for the page number for the decision tree was page 66.

Ms. Donner was given twenty minutes for her presentation. Both Ms. Sandra Donner and Ms. Julia Burt were sworn in.

Appellant's Opening Statement

Ms. Burt presented her appeal. She said she and her husband, Randall Burt, are the owners of the property that is the subject of this appeal. As noted by the City Attorney, City Ordinances to not provide specific design standards for gates. When they made their original proposal to the Historic Design Review Board, the Staff recommended approval because the proposal complied with all applicable design standards for the historic

district, generally, and the Downtown and Eastside Historic District specifically. At the Historic Design Review Board, there were questions regarding the materials of the gates. They did not bring specific examples of gates that already existed in that historic district because they did not expect to have any issues with the H Board. So now, she would provide to the Governing Body the specific examples that exist throughout that area that are already solid metal gates and are certainly harmonious with that area, in general.

There were two people that objected at the public hearing last time. Ms. Beninato you heard from earlier in the meeting, and John Eddy. Those were the only two objections at the former hearing.

She asked for the gates to be shown to the Governing Body that were in this historic area.

Ms. Paez clarified that she didn't have them as a presentation but could open the materials that were submitted. She asked Ms. Donner if she could show them.
Ms. Donner showed the other examples and commented on them and mentioned their approvals by the Board in the very recent past and had the same basic configuration as this proposed gate.

Ms. Burt added that they have a shared driveway and showed a photoshop of the proposed gate in place. She explained the vehicle gate is not on Canyon Road but on a driveway that comes off from Canyon Road. She said the gate was not really visible from Canyon Road.

Ms. Donner explained that the existing gates are both held up by steel members placed inside them. She commented that the condition imposed is very poor and not sustainable.

Questions to Staff

Ms. Burt said that because the Staff approved this project, she had no questions for Staff.

Public Comments

Stefanie Beninato, P.O. Box 1601, Santa Fe, New Mexico 87506, was sworn in. She pointed out that the examples of gates in the area were not within the 600' of property that are considered the streetscape. As she understood, the H Board did not object to steel members on the inside of the wood gates. The Board did approve everything else.

There were no other speakers from the public, and the public hearing was closed.

Questions from the Governing Body

Councilor Villarreal observed that page 62 talked about the Historic Board Walls and Fences Guidelines that said the gates should be set back and modulated. She thought the vehicular gate looked set back but from the minutes, thought the Board believed it was not set back far enough. She asked Ms. Paez about that.

Ms. Paez said that discussion was in reference to the new stucco wall, which was approved as having the modulation required, and that discussion was not in reference to the gate.

Councilor Villarreal saw in the Guidelines that it refers to set back of walls.

Ms. Paez explained that refers to a statement that fenestration is encouraged for some openings in the gate and latillas or some kind of cut out would meet that requirement.

Councilor Villarreal understood the other part was about fenestration. So fenestration is about visibility.

Ms. Paez said fenestration provides openness.

Councilor Villarreal reasoned that here there is no fenestration. Some of the examples shown also had no fenestration. So why did they recommend that style for the gate?

Ms. Ramirez Thomas clarified what the Code calls for does not specifically exclude metal gates but does call for traditional and harmonious materials like adobe, wood elements and harmonious material. So the traditional material is there for harmonious treatment.

Councilor Villarreal wondered why oxidized steel was approved at other locations. She did not understand when it is considered harmonious and when is it not.

Ms. Ramirez Thomas shared her screen and reviewed the examples again. The first has great fenestration and there was a second submittal given approval by Staff instead of the Board. This gate is right on the streetscape and has several panels. There was a challenge on case materials and same as for Ms. Donner. Another one came back for an exception where the

applicant took the denial on appeal. So it was approved by exception. Fenestration was discussed here but narrow panels did not give enough room for fenestration. The next was not in the Downtown and Eastside District. 1634 Canyon Road is down a private drive from Canyon Road. The next one has a great deal of fenestration.

Ms. Ramirez Thomas could not find an approval of the next one.

The next example was a solid gate about five feet tall and had a wood appearance design the Board considered acceptable.

The next one, at 795 Camino Del Mote Sol, was outside the district.

She added that Staff may not see any challenge with what is presented but the Board can disagree and here, the Board did disagree.

Councilor Villarreal asked why the owners did not seek an exception.

Ms. Donner replied that an exception could be a possibility but was never brought up. The problem with requesting an exception is that nothing in the code prevents this gate. So we were technically allowed to do it. Looking at Ms. Ramirez Thomas's comments – 1634 Canyon Road is down the road and on a private drive and that one is visible from Canyon Road. You can see the gate from Canon Road. The exception idea never came up and she was not sure how to present it as an exception because nothing is excluded in the Code.

Ms. Burt added that the FF/CL stated, we were obligated to file an appeal within 15 days. Once the findings were made, she was bound to make the appeal within the 15-day period, and she did.

Councilor Villarreal asked if neither Staff nor Board brought up the possible exception.

Ms. Donner agreed.

Councilor Villarreal asked Ms. Ramirez Thomas about it.

Ms. Ramirez Thomas agreed the appeal does have to be filed within 15 days but can be withdrawn before coming to the Governing Body. There was discussion on fenestration, but they did not bring up a reason. That would be an exception to Santa Fe style. Staff would have recommended more discussion on that option. There was much discussion on redesign of the gate and of fenestration in the gate. The applicant did make a move to present a redesign by the Board and would have been heard at the June 22 meeting. But the application was withdrawn in advance.

Ms. Burt said what was discussed at the Board meeting was metal with wood fenestration. The appeal hearing was postponed because of publication deadlines. Solid metal gates were approved in six of the 9 examples, but she would have to go with plan b, if not approved.

Ms. Donner said there was a specific move into June, so we were pushed back and needed to get it done so we submitted a redesign.

Councilor Villarreal asked about a compromise of oxidized gate with fenestration.

Ms. Burt stated that the H Board is charged with following the Code. This gate is off the street and not visible from Canyon Road and she should have the right to build it within the Code. The Board's guidelines are not consistently applied.

Councilor Villarreal asked staff about fenestration.

Ms. Paez said fenestration is in the guidelines and not in the Code. The Board was concerned the material was not harmonious with nearby homes.

Fenestration is in guidelines and not an ordinance. What is harmonious with recent Santa Fe style as a supplement to the Code.

Councilor Vigil Coppler asked Ms. Paez if the City Ordinances provide for specific design standards for gates.

Ms. Paez said no, other than height and general harmony.

Councilor Vigil Coppler said it says here the City ordinance does not provide specific design standards for gates. On the discussion surrounding exceptions. In this case, whether approved or not, there is still precedent. The final result is what matters and when you approve a design standard of some sort, through a Board vote, that has an effect; it sets precedent. The Canyon Road gate seems to set precedent. It was approved and is in proximity and has no fenestration. However it got approved, it is still there, and she did not hear it was under contention for further review. She thought precedent matters. Like you already let the horse out of the corral, and it creates a standard. And with no other option, the courts say you rely on what has already been done. Precedent is used in many cases. Is the Canyon Road gate made of metal?

Ms. Paez thought so but was not sure of documentation of that. And she invited correction. She suggested the Google Street view. She had a hard time finding it. It appears to be steel.

Councilor Vigil Coppler understood it was presented as metal and part of the examples of metal gates. It was probably approved because of a wood design but no fenestration. This appeal is before us de novo, so the standards are a little higher. If it is important, it should be in the ordinance. Guidelines are not ordinance. Even fenestration is not in our ordinance.

She asked again if Staff recommend approval to the Board.

Ms. Paez agreed. Staff did recommend approval.

Councilor Romero-Wirth understood the Downtown and Eastside District standard was stricter.

Ms. Ramirez Thomas agreed. It is the most historic district. The Transition District and Historic Review District are not as strict. They look to emulate Santa Fe style and are more lenient. All things must go through the Board with the Downtown & Eastside District.

Councilor Romero-Wirth asked if the Wall and Fence Guidelines have been relied on for twenty years.

Ms. Ramirez Thomas said that was correct. She agreed that some examples shown were not in the district; some have fenestration and others do not. The distance from the road was a consideration for the Board. This one is 45 feet back from Upper Canyon Road but is visible from the street. Some of the other give sort of nod to the vernacular Santa Fe style.

Councilor Rivera saw in the memo, page 3, the H Board put the gate conditions on, and the second condition didn't say it could not be a metal gate but should have coyote latillas incorporated in the design.

Ms. Paez agreed.

Councilor Rivera wondered if that same condition could apply to the pedestrian gate also. He thought it would make sense to have matching style gates. But the Board specifically said no steel on the pedestrian gate which he needed to understand why.

Ms. Paez didn't know why they imposed that.

Ms. Ramirez Thomas understood that restriction was because the pedestrian gate was right on the streetscape. However, nothing fleshed out that decision by the Board.

Councilor Rivera added that the restriction on the vehicle gate doesn't say the metal on the gate would be a frame. He could envision a steel gate with a foot or two of latillas on the top, for instance. It was left pretty wide open in his opinion.

Ms. Paez mentioned that often, the Board does delegate final design authority to Staff but, in this case, it would have come back to Staff for incorporation of wooden design elements. And, unless Staff was uncomfortable, it could have been approved administratively.

Councilor Rivera said that was what happened with one example as the appellant said.

Ms. Paez agreed it was her understanding of the record.

Councilor Rivera asked if there is still opportunity for the appellant to request an exception.

Ms. Paez said yes. They could propose a design now that they understand what the Board wanted for design. They could propose an alternate gate design for an exception and follow the requirements for that request.

Mayor Pro Tem Lindell asked Ms. Paez to show the Governing Body the Google of all the gate designs.

Ms. Paez showed all of them and made comments on each.

Mayor Pro Tem Lindell said what bothered her the most about this and will ask the appellant, was that it didn't seem that putting some fenestration on the age would ruin this project.

Ms. Burt said she would like to be allowed to respond to the questions at some point.

Appellant's Closing Statement

Mayor Pro Tem Lindell agreed. She closed this section of the hearing and give the appellant an opportunity for a closing statement of five minutes.

Ms. Donner said Councilor Villarreal asked about the fenestration. The guidelines say fenestrated gates should be encouraged. So that is encouraged but not required. Most of the gates shown were in the Downtown and Eastside District – six of them. One was fenestrated and the rest were solid. One gate on Acequia Madre was not completely administratively approved. It had been at the Board.

On the views, one was on an alley, but the gate was more visible.

The reason Ms. Burt wanted a solid gate was the property was near a condo where lots of dirt and other debris gets kicked up, and lots of noise.

Ms. Burt said the gate at 1364 Canyon Road is at the Dale Ball trail. That gate is far more visible than her gate which doesn't even face Canyon Road. Her gate is not any larger than other proposed gates in the area – it is not oversized or inconsistent with other approved gates. There is a lot of dirt that comes off Canyon Road. On page 54, there was a misconception that it is just one piece of steel. There are undulations and design elements that makes it more in keeping with the stucco wall and more beautiful than many that were approved. The Governing Body also needs to be consistent in applying the Code. And if not approved, would not be consistent with the standards. So in the decision tree, you have the ability to look at the gate and see our gates are not inconsistent with the standards. "Thanks for your time today."

Action of the Governing Body

Mayor Pro Tem Lindell asked for the pleasure of the Governing Body on this appeal.

MOTION: **Councilor Vigil Coppler moved, seconded by Councilor Garcia, to reverse the Board's decision and grant the appeal.**

VOTE: **The motion failed on the following 3-4 Roll Call vote.**

For: Councilor Abeyta, Councilor Garcia, and Councilor Vigil Coppler,.

Against: Councilor Rivera, Councilor Romero-Wirth, Mayor Pro Tem Lindell, and Councilor Villarreal. Mayor Webber was not present for the vote.

Ms. Paez said the motion failed and a motion that passes is needed under State law. In addition, the Governing Body needs five votes to reverse the outcome. She asked for another motion.

Councilor Romero-Wirth saw it failed by a 3-4 vote. So she asked why that wasn't sufficient.

Ms. McSherry explained that an alternative motion (to support the H Board) does not require a majority of five but could be approved with four. She could see the motion failed to overturn the Board's decision.

MOTION: **Councilor Rivera moved, seconded by Councilor Villarreal, to deny the appeal and uphold the Board's decision and request Staff to prepare Findings of Fact and Conclusions of Law consistent with this motion.**

Discussion on the motion:

Councilor Villarreal asked if there was an ability to follow that with a condition that they could find a compromise.

Ms. Paez explained that the motion to deny the appeal would be to remain with the H Board's decision but the applicant could come back with another proposal as applied to the original application.

Councilor Villarreal understood.

Councilor Garcia added that the Applicant does still have ability to apply for an exception.

Ms. Paez agreed.

The motion was approved on the following Roll Call vote:

For: Councilor Abeyta, Mayor Pro Tem Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: Councilor Garcia and Councilor Vigil Coppler.

The Governing Body went back to finish the afternoon agenda.

12. **MIDTOWN OVERVIEW**

a. Midtown Planning & Development Bi-Weekly Report, by Office of Economic Development Department. (Rich Brown, Director, Community & Economic Development Department. rdbrown@santafe.gov, 955-6625) **INFORMATION ONLY**

Progress Report: Update
Presenter: Daniel Hernandez, Proyecto, Midtown Redevelopment Project Manager

Mr. Hernandez spoke about Public Engagement for Development Planning with two major events over the next two months. UNM is working with us for other simultaneous events. The first event was called Listening Session

on July 20-22 with the first part during daytime at the Convention Center and second in the evening. Mr. Hernandez described the goals for the site and a walk around the site listening to ideas. Then, they would go back to work and in September, have workshop sessions on how to apply the ideas to Midtown on September 23-25 with a major presentation on Saturday.

The Listening Session is for ideation, exploration without judgment and to generate interest and open conversations as well as aspirations for the future. They would then synthesize results in September to apply what we heard with real time applications and interact planners with public to design and create and achieve a shared public vision.

The wrap up would be in September and then present a resolution to the Governing Body on September 29 and ask in the resolution to direct Staff for approvals. They will propose presentations at Public Works, EDAC, and Quality of Life Committees, and come back to the Governing Body at the end of October for a final vote on the resolution.

Mr. Hernandez added they are proposing more public forums in the fall at Mayor Webber's City Forum in September and a District Forum by each Councilor.

Mr. Hernandez shared the core outcomes for the events: to create a Land Use Plan for what can be built at Midtown, leading to a zoning application and amendments. The Development Framework will be used for those approvals.

Finally, a Community Development Plan for the people who are interested in an equitable and sustainable plan. It would then be presented to the Governing Body by the end of the year.

He shared the timeline (which was unreadable on the screen). He agreed to send it to the Governing Body members which was the timeline he described.

Director Brown said the timeline was devised with the partners for the work being done and each time, he could walk through what was accomplished in the timeline by looking in the packet.

Mr. Hernandez said they were advancing the website and will post things that are being finalized this week for the July listening session.

Councilor Rivera asked re about accommodations for Spanish speakers.

Director Brown said interpreters with headsets would be available.

Councilor Rivera understood the daytime session were walking sessions.

Mr. Hernandez agreed and they would try to make it as interactive as possible with people coming in and out.

Councilor Rivera asked about advertising.

Mr. Hernandez said they are meeting weekly and have email, a mailing list and distribution at various places including libraries. They will send out a flyer through email tomorrow or Friday.

Councilor Rivera asked them to keep youth in mind. They won't be in school yet. That might be their only opportunity.

Councilor Villarreal thanked Mr. Hernandez for this presentation and getting it to us ahead of time. She was curious about the theme.

Mr. Hernandez explained those were pieces of the puzzles the Design Center was working on with topics of interest, e.g. affordability of housing and different appropriate strategies.

On opportunities, they are looking at other cities for ideas on how to access jobs, outreach for various skill levels and how SFCC helps with career paths. They will put together a marketing strategy for Garson Studios. Community Arts is a priority. How do we sustain and stabilize community arts to continue in Santa Fe? He mentioned memories of the history of the site. That plays out in different ways, whether a physical plaque or the way it was designed, We will listen to those stories about the site.

Councilor Villarreal thought that should be earlier than in September. She encouraged them to change the order of events.

Councilor Villarreal asked about housing opportunity and affordability on the campus.

Mr. Hernandez was looking at production, preservation and polices at Midtown that would impact affordable housing. And protection is about issues affecting housing that makes them vulnerable and security issues.

Councilor Villarreal asked what criteria on affordability they have developed for affordable mixed housing that could be on the campus.

Mr. Hernandez said it is clear that affordable housing is a huge need in Santa Fe right now. Part of the criteria would be what sites are ready to go through the process and finding the right residential placement.

Councilor Villarreal asked why they want district events so late in the timeline.

Mr. Hernandez said it was mostly because of the events already in July and September. He felt that would allow follow up in the districts. He could talk about rescheduling those in August or early September.

Councilor Villarreal favored August. She pointed out it is getting closer to the election and what happens during that time are candidate forums. It would be best not to conflict with them.

Mr. Hernandez agreed.

Councilor Garcia thanked Director Brown and Mr. Hernandez for the presentation. The public forums need to happen earlier. The only opportunity to fully digest the recommendations would be to attend the committee meetings.

Regarding the Listening and Workshop sessions, he asked why there was no Saturday listening session. He recommended another sidewalk session on a Saturday. It is harder for working parents to attend during the week. He reminded the Chainbreaker was an all-day forum.

He was surprised to them introduce the resolution on the 29th when the last workshop was on the 25th. For just four days, he was not comfortable. It should not be rushed to synthesize that data. Why only four days for that process?

Mr. Hernandez said once people walk away from those session, they want to see almost immediate feedback. He liked the August forum idea. They are working with highly effective planners and should synthesize it quickly. They will go back to the office and put it all together. It will be conceptual and not as detailed. It should be a very simple resolution. The full approval process is 6-8 months.

Councilor Garcia agreed the community wants to see action but four days for action is surprising. To fully incorporate three months of data collection – and the four days includes the weekend. We need to ensure all of it is included and something we can accomplish.

Councilor Garcia was willing to set up meetings in October.

Councilor Vigil Coppler agreed with Councilor Garcia. Pay attention to public input. Where in Midtown will the session be held?

Mr. Hernandez said they will specify exact buildings in Midtown. They were looking at the gym right now.

Councilor Vigil Coppler asked how the interpreters at listening session would be set up. She thought sign language interpreters also should be considered.

Mr. Hernandez said they would circulate around the room and call for interpreters as needed. It is a fluid process, but we do it all the time.

Councilor Vigil Coppler said that should be visible on the flyer too. If they don't see it, they might not attend.

Mayor Webber thanked them. The plan makes good sense, and we will all be supporting it.

13. **MATTERS FROM THE CITY MANAGER**

Manager LaPan Hill thanked the Governing Body for all the kudos to the team and we can be reminded that we have all been through this and are coming back to the offices and interacting with others.

She wished everyone a happy Fourth of July to make sure the events are on pace and fun for everyone. Staff will be out in full force with teams everywhere.

Amendment to the Agenda:

MOTION: **Councilor Garcia moved, seconded by Councilor Romero-Wirth, to move the Executive Session to the very end of the agenda.**

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

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

Against: None.

14. **MATTERS FROM THE CITY ATTORNEY**

This item was moved to the end of the agenda.

15. MATTERS FROM THE CITY CLERK

Ms. Bustos-Mihelcic listed three events on July 4. The first was vintage car show on the Plaza and then Fire Dept handling out flyers, coloring books and helmets, and then the fireworks show.

She also noted the Clerk is now posting contracts online that have been approved in 2021. She was also looking at posting previous years.

16. COMMUNICATIONS FROM THE GOVERNING BODY

a. Introduction of Legislation

Councilor Vigil Coppler gave congratulations to Harold Dixon who was retiring today as CEO after 24 years with the State Employees Credit Union with assets growing greatly. He was born here and educated here and has been very active in SECU. Many members of the business community and nonprofits have spoken very highly of him. At one point, during the lockdown with COVID, he hired tutors and allowed parents to bring their kids there for tutoring. He figured out things. We will really miss him.

Councilor Abeyta passed.

Councilor Garcia called attention to what happened at the public hearing at Public Works/Utilities Committee on Monday. The Committee approved a motion to move the public hearing during the Governing Body meeting and there were concerns about doing it. One was to make sure the public had an opportunity to participate in the process. We were informed on Monday during the meeting that the one sole mechanism to inform the public was publishing the agenda. We all sat through the proposal for the Zia Road development and advertising the public hearing in that manner was a disservice. So he hoped the Governing Body could have that public hearing at the July 14 meeting and have a yellow sign posted at the site.

He asked for an update on CHART. Folks are very eager, with recent events, to be able to participate in the process of healing and closure. And an update would help.

He gave a shout out to the Parks Team. He agreed to meet with a concerned constituent on the Plaza. He was concerned with what was going on there. He said the Parks Team had been working in the rain, cleaning up the Plaza. He acknowledged their dedicated efforts.

Lastly, he gave a shout out to Councilor Villarreal at her 21st birthday and the big fireworks display to celebrate her birthday.

Councilor Villarreal thanked Councilor Garcia for acknowledging her birthday. She would really like it to be 21.

She wanted an update on Strategic Plan for using the American Rescue Fund and to be more thoughtful about how to let folks know about the funding and potential uses. There are outreach efforts in various places in the country on the most pressing concerns, especially with nonprofits involved on the ground. Either City Manager or other Staff should let us know the plan and date for cannabis regulations. We need to be ahead of that. What is our strategy for regulation?

She thanked the MPO Staff for organizing the southside green audit (field trip) walk to understand possibilities for the southside greenway. Councilor Abeyta, Council Cassutt and Councilor Garcia were also there. Councilor Cassutt serves on the MPO with her. It was helpful to hear from neighbors and it was informative for her.

She introduced a resolution authorizing the sale and consumption of beer and wine at the Montezuma Pocket Park for the Sky Railway grand opening on September 3 and 4.

Councilor Romero-Wirth provided a clarification about a piece in the New Mexican in the context of the cannabis articles. She did not say she thought we should be drug testing City employees as some commentators thought. We need to revisit the policies we have and look at how other communities are dealing with cannabis, now that it is legal. Our lifeguards are drug tested and that was off putting to them. So we need to revisit our policies.

She added her voice to the thanks to community, city employees, leadership team on how they responded and led us through the pandemic. We have been through an incredible journey, and she gave a shout out also to the Governor for what she has done to keep New Mexico safe and us all to do the right thing. It was not always easy.

She introduced an ordinance with Councilor Garcia on campaign code with amendments for the definition of a political Committee to establish a threshold amount for reporting contributions, an amendment to 9-2.6 to increase the aggregate expenditure amount requiring reporting to $500 and to exempt aggregate contribution amounts of less than $25 from separate reporting requirements, amending Section 9-2.7 to make necessary changes regarding references to a Political Committee, and amending Section 9-2.11 to exempt aggregate contribution amounts of less than $25 from separate reporting requirements.

Councilor Rivera wished his wife happy 28th anniversary on June 26. His daughter, Emily, will be 22 on Monday and he also wished Councilor Villarreal a good birthday.

Councilor Lindell thanked her partner Maria for 25 years together. She noted that Maria hasn't said anything about another year together, but she was grateful to her and her support for the work Councilor Lindell loves.

She gave a sincere thank you to the fire fighters and EMT crew from Ft. Marcy – a week ago when we made a 911 call. They came immediately. They were impressive and so kind. She was deeply grateful to them. The whole system worked. She got a bill within five days so the whole system is working. She was really impressed and grateful to them for showing up and being astoundingly kind. She will bake something and take it over to them.

Mayor Webber wished Councilor Villarreal an extremely happy birthday celebration. We all will be singing your praise.

He and Councilor Abeyta are introducing an ordinance that was too long to read regarding sale of bonds.

He gave a big shout out for all who participated in and planned the PRIDE Parade. It was great celebration with energy and joy. People having a good time and celebrating diversity and unity at the same time. He announced the 12 and under All Star boys won their game 18-0 and advance to the state tournament on July 18-23 at Alto Park.

"Let's make July 4 a safe and sane holiday. Show up at Santa Fe Place Mall for safe fireworks."

Councilor Vigil Coppler said she has never seen Councilor Garcia shy, but he also had a wedding anniversary. She wished him and his wife a very happy anniversary.

Councilor Garcia thanked her and said they are aiming for double digits.

The Governing Body went next back to the Matters from the City Attorney.

14. MATTERS FROM CITY ATTORNEY

Ms. McSherry recommended an executive session and read the details in 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 or May Become a Party, Including, But Not Limited to, Discussion Regarding City of Albuquerque et al v. Taxation and Revenue Department; and Union Protectíva de Santa Fé v. Mayor Alan Webber, in his Official Capacity, and the City of Santa Fe. (Erin K. McSherry, City Attorney. ekmcsherry@santafenm.gov, 955-6512)

MOTION: **Councilor Rivera moved, seconded by Councilor Vigil Coppler, to enter executive session, pursuant to the Open Meetings Act, Section 10-15-1 (H) (7) for discussion of threatened or pending litigation in which the Governing Body is or may become a participant.**

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

For: Mayor Webber, Councilor Abeyta, 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 10:05 p.m.

The Governing Body returned at 10:30 pm. Mayor Webber said Councilor Lindell was excused for this vote.

MOTION: **Councilor Rivera moved, seconded by Councilor Romero-Wirth, to come out of executive session, stating for the record that the only matters discussed in executive session were those listed on the agenda.**

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

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

Against: None. Councilor Lindell was excused for this vote.

ADJOURN

Having completed the agenda and with no further business to come before the Governing Body, the meeting was adjourned at approximately 10:32 p.m.

Approved by:

_____

Mayor Alan Webber

ATTESTED TO:

_____

Kristine Bustos Mihelcic, City Clerk

Respectfully submitted by:

Carl G. Boaz

Carl G. Boaz, Council Stenographer

GOVERNING BODY MEETING
EXECUTIVE SESSION
June 9, 2021

The Governing Body of the City of Santa Fe met in an executive session duly called on June 30, 2021 beginning at 10:10 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 or May Become a Party, Including, But Not Limited to, Discussion Regarding City of Albuquerque et al v. Taxation and Revenue Department; and Union Protectíva de Santa Fé v. Mayor Alan Webber, in his Official Capacity, and the City of Santa Fe. (Erin K. McSherry, City Attorney; ekmcsherry@santafenm.gov, 955-6512)

PRESENT
Mayor Webber
Councilor Abeyta
Councilor Cassutt (Excused)
Councilor Garcia
Councilor Lindell
Councilor Rivera
Councilor Romero-Wirth
Councilor Vigil Coppler
Councilor Villarreal

STAFF PRESENT
Jarel LaPan Hill, City Manager (Attended Virtually)
Erin K. McSherry, City Attorney (Attended Virtually)
Kristine M. Mihelcic, City Clerk (Attended Virtually)
Marcos Martinez, Assistant City Attorney (Attended Virtually) (Left at 10:22 p.m.)
Shannon Jones, Utilities Director (Attended Virtually) (Left at10:22 p.m.)

There being no further business to discuss, the executive session adjourned at 10:29 p.m.

Kristine M. Mihelcic, City Clerk

GOVERNING BODY MEETING OF
June 30, 2021
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION BY MEMBERS OF THE GOVERNING BODY

EXHIBIT ONE
GB June 30, 2021

Mayor Alan Webber

Co-Sponsors	Title*	Tentative Committee Schedule*
	AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO SUBORDINATE LIEN GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2021 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $14,745,000 FOR THE PURPOSE OF (1) REFUNDING, DISCHARGING AND PAYING THE CITY OF SANTA FE, NEW MEXICO SUBORDINATE LIEN GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2010B AND MATURING ON AND AFTER JUNE 1, 2022; (2) REFUNDING, DISCHARGING AND PAYING THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2012A AND MATURING ON AND AFTER JUNE 1, 2022; AND (3) PAYING COSTS OF ISSUANCE OF THE SERIES 2021 BONDS; CALLING FOR THE REDEMPTION OF THE OUTSTANDING SERIES 2010B BONDS AND SERIES 2012A BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; APPROVING THE SELECTION OF AN UNDERWRITER AND FORMS OF A PRELIMINARY OFFICIAL STATEMENT AND A PAYING AGENT REGISTAR AND DEPOSITARY AGENT AGREEMENT; DELEGATING AUTHORITY TO THE MAYOR OR, IN THE MAYOR'S ABSENCE, THE CITY MANAGER OR FINANCE DIRECTOR, TO APPROVE THE FINAL PRINCIPAL AMOUNT, INTEREST RATES AND OTHER DETAILS OF THE BONDS WITHIN THE PARAMETERS SET FORTH IN THIS AUTHORIZING ORDINANCE, AND TO EXECUTE AND DELIVER A BOND PURCHASE AGREEMENT FOR THE SALE OF THE BONDS TO THE UNDERWRITER; PROVIDING FOR THE COLLECTION OF CERTAIN GROSS RECEIPTS TAX REVENUES; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND RELATED MATTERS.	Governing Body (request to publish) – 7/14/21 Finance Committee – 7/19/21 Public Works and Utilities Committee – 7/26/21 Governing Body (public hearing) – 8/11/21

Councilor Roman "Tiger" Abeyta

Co-Sponsors	Title*	Tentative Committee Schedule*

This document is subject to change.

Councilor Jamie Cassutt		
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***

Councilor Chris Rivera		
Co-Sponsors	**Title***	**Tentative Committee Schedule***

Councilor Carol Romero-Wirth		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
Garcia	**AN ORDINANCE RELATING TO THE CAMPAIGN CODE; AMENDING SECTION 9-2.3 SFCC 1987 TO AMEND THE DEFINITION OF A "POLITICAL COMMITTEE" TO ESTABLISH A THRESHOLD AMOUNT FOR REPORTING CONTRIBUTIONS; AMENDING SECTION 9-2.6 TO INCREASE THE AGGREGATE EXPNDITURE AMOUNT REQUIRING REPORTING TO FIVE HUNDRED DOLLARS AND TO EXEMPT AGGREGATE CONTRIBUTION AMOUNTS OF LESS THAN TWENTY-FIVE DOLLARS FROM SEPARATE REPORTING REQUIREMENTS; AMENDING SECTION 9-2.7 TO MAKE NECESSARY CHANGES REGARDING REFERENCES TO A "POLITICAL COMMITTEE"; AND AMENDING SECTION 9-2.11 TO EXEMPT AGGREGATE CONTRIBUTION AMOUNTS OF LESS THAN TWENTY-FIVE DOLLARS FROM SEPARATE REPORTING REQUIREMENTS.**	Quality of Life Committee – 7/7/21 Governing Body (request to publish) – 7/14/21 Finance Committee – 7/19/21 Governing Body (public hearing) – 8/11/21

Councilor JoAnne Vigil Coppler		
Co-Sponsors	**Title***	**Tentative Committee Schedule***

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, jbguillen@santafenm.gov or Jeff Norris, 505-955-6692, jtnorris@santafenm.gov.

City of Santa Fe New Mexico
Memorandum

DATE: July 9, 2021

TO: Mayor Webber and the Governing Body

FROM: Kyra Ochoa, Director, Community Health and Safety Department
Rich Brown, Director, Community and Economic Development Departments

RE: Cannabis Update on City Preparation for Legalization of Cannabis

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SUMMARY:

During its 2021 January session, the legislature of the State of New Mexico passed legislation on the legalization of cannabis. Once it was legalized during a special session that ended in April, 2021, the City of Santa Fe leadership convened a series of meetings on the topic and took a series of actions, summarized below.

BACKGROUND:

In November 2020, the Community Services Department commissioned a study from the Drug Policy Alliance on the proposed legislation. The report included implementation steps that need to be taken once legalization occurred, as well as resident and staff input on how revenues potentially should be spent. The report, entitled "Cannabis Legalization: Local Revenue Options for the City of Santa Fe," was completed 5/24/21 and is attached.

During the special session the state legislature convened March 30, 2021 and concluded in April, City Lobbyist Mark Duran provided District Councilors and the Mayor with updates and analysis on the proposed legislation to be considered in the House and Senate (HB12 and SB288). The analysis is attached.

In coordination with the Police Department, the City Attorney's office created an annotated index regarding HB 2 and sent that to the police department. They worked with the police department on implementing a special order once HB 2 became effective.

In addition, City Attorney reviewed the Police Department's hiring policy, removed pre-employment cannabis use as an automatic disqualifier. The City Attorney also reviewed the City's alcohol and drug testing policies. Because most of the random and required drug testing is federally mandated (safety sensitive positions, commercial drivers, transit) there was no need to change or amend any of those policies. The City does, however, have a policy that allows drug testing of employees working in non-CDL/non-safety sensitive positions based on

reasonable suspicion, and the City Attorney has recommended that the Human Resources Department could remove marijuana from the list of "controlled substances" in that policy.

With regard to land use issues, the Governing Body has delegated to the Planning Commission the authority to review and make recommendations regarding proposed amendments to the Land Development Code, as set forth in Chapter 14 of the Santa Fe City Code. *See* SFCC § 14-2.3(C)(7). The Planning Commission has created an ad hoc Policy Subcommittee, consisting of a non-quorum of Planning Commission members, to begin studying land use policy issues, including issues related to cannabis. *See* SFCC § 14-2.3(G)(1) (stating that the Planning Commission may delegate its authority to ad hoc subcommittees). In coordination with the City Attorney's Office, the Land Use Department has started analyzing how various types of cannabis establishments would be treated today, under existing zoning regulations, and is identifying policy considerations that could be addressed through amendments to Chapter 14. Staff's initial analysis is attached. Land Use Department staff anticipates that the Policy Subcommittee will work with staff to draft proposed amendments to Chapter 14. Pursuant to the City's legislative process, proposed amendments to Chapter 14 would be subject to one or more public hearings, review, and recommendation by the full Planning Commission; followed by consideration by the City's council committees; and finally, a public hearing, review, and decision by the Governing Body.

On May 2021, Economic Development Director Rich Brown and his staff met with Superintendent Linda Trujillo and Deputy Superintendent John Blair of the New Mexico Regulation and Licensing Department to better understand how the Department would be regulating and licensing businesses engaged in cannabis production and sales. With its partner Santa Fe Innovates, Economic Development will co-host a Cannabis Market Overview event on August 17, noon to 1:30 pm. Canna Advisors, a leading cannabis consulting firm based in Boulder, CO, will provide the content. Below is the agenda:

- Provide an overview of the cannabis market
- Define cannabis business types: cultivation, dispensary, full supply chain
- Highlight key industry and competitive trends to consider
- Identify key considerations and risks if starting a cannabis business
- Highlight opportunities specific to New Mexico
- Answer questions from participants

ATTACHMENTS:
DPA Report, "Cannabis Legalization: Local Revenue Options for the City of Santa Fe"
Mark Duran, "Analysis of Effect of Cannabis Legislation on City of Santa Fe"
Land Use Analysis

Santa Fe Police Department

Special Order

DATE: **July 6, 2021**

TO: **All Police Personnel**

VIA: 7/6/21
Andrew Padilla, Chief of Police

FROM: 7/6/21
Paul Joye, Deputy Chief of Police

RE: **HB 2 Now in Effect - Enforcement of Marijuana Laws Moving Forward**

Special Order # 07.21.03

The purpose of this Special Order is to provide guidance to SFPD personnel as a result of the Cannabis Regulation Act becoming effective on June 29, 2021.

As you are aware, the law has now changed, and some situations regarding cannabis/marijuana are no longer illegal; other situations are now civil violations. Listed below are some of the most notable changes/sections you need to pay close attention to in the event you encounter cannabis during your daily patrols.

Attached to this Special Order is the final version of House Bill #2, which is the full text of the Act itself. Please print it out to keep or save a digital version to your laptops, and have it readily accessible for reference and review.

**These are the primary sections of the Act that will have an immediate effect on how you conduct your policing enforcement and activity. Therefore, expect subsequent Special Orders with additional information as we continue to work through this change to the law and the changes regarding sales of cannabis, which do not go into effect until 2022. **

- **Section 25, Page 54 covers "Personal Use" and what is legal for personal use.**
    - Keep in mind, this means you cannot detain, engage in search and seizure, or an arrest under situations fitting within this section as long as it is *lawful* personal use
    - The primary focus is on **Section 30 "Unlawful Possession of Cannabis"**

- The key points of this section you will all need to familiarize yourselves with are:
  - A person 21 years of age and older can possess up to 2 ounces of cannabis, 16 grams of cannabis extract, or 800 milligrams of edible cannabis.
  - Also lawful to use, be under the influence, display, purchase, obtain or transport.
  - Lawful to transfer cannabis without financial consideration (no sales are permitted yet).
  - The lawful amount of cannabis plants one person can have is 6 plants for one person, or up to 12 plants for multiple people in the same household. Section 27 outlines penalties for having excess plants. 6-12 plants is penalty assessment. More than 12 is 4th degree felony. Different standard if the person is over 21 versus 18-21. 18-21 year old; up to 6 is a penalty assessment, 6-12 is a misdemeanor, more than 12 is 4th degree felony. If under 18 and have plants, civil citation.
  - Transportation of cannabis is allowable if it is done for relocation purposes or testing or manufacturing.
  - The odor of cannabis alone does not constitute reasonable articulable suspicion of a crime and is not a basis to stop, detain, or search a person. Odor is, however, relevant when **you have begun conducting a DWI investigation**. Possession of, or the suspicion of possession of, cannabis without evidence of quantity in excess of two ounces of cannabis, as well as the possession of multiple containers of cannabis without evidence of quantity in excess of two ounces of cannabis, are also not enough for reasonable suspicion of a violation.

- One item of note, **it is still not legal to smoke marijuana in public, unless specifically allowed by local law**. The City of Santa Fe has not authorized smoking in public at this time. This is a civil citation of $50.00

- **Section 30, Page 62 covers "Unlawful Possession of Cannabis"***

  - A person under twenty-one years of age shall not possess cannabis products. A person who violates this subsection is guilty of a civil violation and shall be subject to:
    - Attendance at a four-hour evidence-based drug education and legal rights program at no cost to the person; or
    - Four hours of community service;

  - A person twenty-one years of age or older shall not possess more than two ounces of cannabis, sixteen grams of cannabis extract and eight hundred milligrams of edible cannabis in public. A person who violates this subsection with respect to:
    - More than two but not more than eight ounces of cannabis, more than sixteen grams of cannabis extract and more than eight hundred

milligrams of edible cannabis is **guilty of a misdemeanor** and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978; or

- More than eight ounces of cannabis, sixty-four grams of cannabis extract or three thousand two hundred milligrams of edible cannabis is **guilty of a fourth degree felony** and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

Please contact Captain Matthew Champlin or Deputy Chief Paul Joye if you have any questions.

City of Santa Fe New Mexico
Memorandum

Date: July 9, 2021

To: Richard Brown, Director – Community Development Department
Jason Kluck, Interim Land Use Director

From: Noah Berke, Current Planning Division Manager

CC: Governing Body
Planning Commission

RE: City of Santa Fe Recreational Cannabis and Land Use Update

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ITEM & ISSUE:
In the 2021 Special Session, the New Mexico Legislature adopted the Cannabis Regulation Act (House Bill 2), which legalized recreational cannabis use by adults twenty-one (21) years old and over. The Act, which took effect on June 29, 2021, allows local jurisdictions to adopt zoning and land use regulations but limits the extent of local regulatory authority. This memorandum summarizes how new cannabis establishments would be treated under existing provisions of Chapter 14 of the Santa Fe City Code and describes types of cannabis land use regulations that the City could choose to adopt going forward.

HOW ARE PROPOSED NEW CANNABIS ESTABLISHEMENTS CURRENTLY REGULATED UNDER CHAPTER 14?
To determine whether a new cannabis establishment is permitted in a particular location, the Land Use Department references Chapter 14 to determine whether the cannabis establishment constitutes a "permitted use" in the zoning district, either with or without a special use permit. *See* SFCC Table 14-6.1-1 (Table of Permitted Uses). For example, the City classifies medical cannabis dispensaries as "Apothecary shops and pharmacies," which are permitted uses in the City's C-1 (Office and Related Commercial); C-2 (General Commercial); HZ (Hospital Zone); BCD (Business-Capitol District; I-1 (Light Industrial); SC-1, SC-2, SC-3 (Planned Shopping Centers); and MU (Mixed-Use) zoning districts.

The Cannabis Regulation Act defines new types of recreational cannabis establishments, including the following:

- Cannabis Retailer (commercial sales of cannabis);
- Cannabis Producer (growing or farming of cannabis);
- Cannabis Producer Microbusiness (produces cannabis at a single premise with no more than 200 mature plants at one time);
- Cannabis Manufacturer (turns uncultivated cannabis into oils, edibles, and products); and
- Cannabis Research and/or Testing Laboratories;
- Cannabis Consumption Areas (place where cannabis is smoked, vaporized, or ingested);

- Integrated Cannabis Microbusiness (may include combination of producer microbusiness, manufacture and retail at a single location selling only their own products); and
- Vertically Integrated Cannabis Establishment (may include combination of retail, producer, and manufacturer).

If a person or business wanted to locate a new cannabis establishment within the City, the Land Use Department would classify the establishment within the existing use categories in SFCC Table 14-6.1-1 (Permitted Use Table), as follows.

Cannabis Retailer: A business that conducts retail sales of recreational cannabis would be treated as a "Retail Establishment not listed elsewhere". These are allowed in the C-2 (General Commercial); BCD (Business-Capitol District); I-1 (Light Industrial); I-2 (General Industrial); SC-1, SC-2, SC-3 (Planned Shopping Centers); and MU (Mixed-Use) zoning districts.

Cannabis Producer or Cannabis Producer Microbusiness: A proposal to locate a growing operation would be classified within the "Agricultural Uses" category. To determine whether an Agricultural Use constitutes a permitted use, the Land Use Department would begin by evaluating the size of the growing operation and then, based on size, determine whether the zoning district allows it. Some "Agricultural Uses" require special use permits, while others are allowed by right in the zoning district.

Cannabis Manufacturer: A proposal for a facility that will extract Tetrahydrocannabinol (THC) or other compounds to create edibles, oils, and other cannabis products would be classified within the "Research, experimental and testing laboratories" category, which is currently allowed in C-2 (General Commercial), BCD (Business-Capitol District), I-1 (Light Industrial), I-2 (General Industrial), and BIP (Business Industrial Park) zoning districts. Other proposals for research or testing laboratories would likewise fall into this category.

Distribution: The Land Use Department has received and reviewed applications for use of facilities that would only package and distribute cannabis and cannabis products, such as edibles. Staff has classified these as "Light Assembly and Manufacturing," which are allowed in the C-2 (General Commercial), BCD (Business-Capitol District), I-1 (Light Industrial), I-2 (General Industrial), and BIP (Business Industrial Park) zoning districts.

Cannabis Consumption Area: Under the Cannabis Regulation Act, a local jurisdiction may allow a recreational cannabis consumption area under the following conditions only: (1) access to the area must be restricted to persons twenty-one (21) years of age and older; and (2) the area must be located a minimum distance from schools and daycares. The City has regulatory authority to determine the minimum distance from schools and daycares, except that the minimum distance cannot exceed three-hundred feet (300'). The City has not yet adopted the restrictions and regulations required by state law for recreational cannabis consumption areas. If the City did adopt appropriate restrictions, the Land Use Department would classify a proposal to locate and a smoking lounge that requires membership to the facility within the "Private clubs or lodges" category, which requires a special use permit if located in the residential districts of RR, R-1, R-2, R-3, R-4, R-5, R-6, RC-5, RC-8, and R-10 through R-29; RAC (Residential Arts and Crafts), and AC (Arts and Crafts). Private clubs or lodges are permitted without a special use permit in the C-1 (Office and Related Commercial); C-2 (General Commercial); C-4 (Limited Office, Retail and Arts

and Crafts District); HZ (Hospital Zone); BCD (Business-Capitol District); I-1 (Light Industrial); BIP (Business Industrial Park); SC-1, SC-2, SC-3 (Planned Shopping Centers); and MU (Mixed-Use) districts, but operation hours would be limited from 7 a.m. to 10 p.m.

POSSIBLE CANNABIS LAND USE REGULATIONS MOVING FORWARD:

The State has clearly outlined that local jurisdictions cannot:

- Prevent anyone properly licensed from transporting cannabis products on public roads;
- Completely prohibit the operation of a cannabis licensee;
- Prohibit or limit signage identifying a business as a cannabis establishment if it's attached to or located on the business premises;
- Require a cannabis establishment or a cannabis consumption area be located more than 300 feet from a school or daycare center that existed when the cannabis establishment or consumption area was licensed;
- Require an existing cannabis licensee to relocate to a new premises; or
- Prohibit an adult New Mexican from producing homegrown cannabis.

Local jurisdictions can adopt rules that reasonably limit conditions like density of cannabis establishments and operating times for cannabis establishments. Additionally, as noted above, local jurisdictions may permit recreational cannabis consumption areas as long as the areas are limited to people who are 21 years of age or older and are located a minimum distance from existing schools and daycares, as established by the City (not to exceed 300').

RECOMMENDATIONS:

Staff recommends that the City consider the following policy questions and draft amendments to Chapter 14 as appropriate:

- Should the density of cannabis establishments be limited, in all or part of the City?
- Should the City adopt operating times for cannabis establishments?
- Should cannabis uses be located a minimum distance from schools, daycare centers, religious institutions, and/or residential neighborhoods?
- Should a special use permit be required to operate a cannabis establishment in certain areas, e.g., within a certain minimum distance of an existing school, daycare center, religious institution, and/or residential neighborhood?
- Should the City adopt regulations to allow recreational cannabis consumption areas?
- Should the Table of Permitted Uses be revised to clarify or amend the zoning districts in which the various types of cannabis establishments may be located? E.g., should certain zoning districts be reserved for uses other than cannabis establishments to prevent unintended consequences, such as a proliferation of cannabis establishments that could drive other businesses out or cause rent and property prices to go up?
- Should the definitions in Chapter 14 be amended to include new definitions for various types of cannabis establishments?
- Are Chapter 14 amendments needed to address issues related to historic preservation; safety and security; or odors and ventilation?
- What should the process be for conducting stakeholder outreach and community conversations, prior to the adoption of new land use regulations for cannabis?

STBTC/HB 12 – Overall Analysis

The effect the STBTC Substitute for HB 12 will have on local governments is rather limited. The biggest effect will likely be felt in the area of taxation. Section 52 of the bill allows a municipality to impose an excise tax on cannabis retailers operating within the municipality at a maximum rate of four percent, and the revenue from the tax can be used for any municipal purpose. Sections 57 and 59 then subject that revenue to the same rules and procedures as revenue from other excise taxes and gross receipt taxes regarding adjustments, distributions, and transfers.

Another section which would have an impact would be Section 12, which allows local governments to adopt certain regulations (such as reasonable time, place, and manner rules, etc.), but also prevents local governments from adopting other regulations (such as regulations preventing transportation of cannabis on public roads, etc.).

Finally, Section 37 imposes an annual reporting requirement on all law enforcement agencies regarding cannabis arrests, citations, and penalty assessments.

STBTC/HB 12 – Section-by-Section Analysis

STBTC/HB 12, Section 12. Local Control.
Permits a local jurisdiction to (1) adopt reasonable time, place, and manner rules for cannabis consumption that do not conflict with the Cannabis Regulation Act or the Clean Indoor Air Act, including the adoption of rules that reasonably limit density of cannabis businesses and operating times; (2) allow for the smoking, vaporizing, and/or ingesting of cannabis in cannabis consumption areas, as long as the consumption area is restricted to people 21-years of age or older and is located up to 300 ft from a school or daycare.

Also prevents a local jurisdiction from (a) preventing the transportation of cannabis products on public roads; (b) completely prohibiting the operation of a licensee; (c) prohibiting or limiting signage attached to or located on a licenses premises that identifies the premises as a cannabis establishment; (d) requiring a licensed premises of consumption area to be any more than 300 ft away from a school or daycare; (e) requiring an existing licensee to relocate; or (f) prohibiting a person from producing homegrown cannabis as provided for in the Cannabis Regulation Act.

STBTC/HB 12, Section 37. Reporting Requirements for Cannabis-Related Violations.
Requires law enforcement agencies to submit an annual report to the Department of Public Safety regarding cannabis arrests, citations, and penalty assessments.

STBTC/HB 12, Section 52. Municipal Cannabis Tax.
Allows a municipality to impose an excise tax on cannabis retailers operating within the municipality at the maximum rate of four percent. The revenue from this tax can be for any municipal purpose. The tax shall not apply to medical cannabis sales.

STBTC/HB 12, Section 57. Transfer—Revenues from Municipal Cannabis Tax and County Cannabis Tax.
Provides for the same municipal and county tax distributions as other municipal and county taxes.

STBTC/HB 12, Section 59. Adjustments of Distributions or Transfers to Municipalities and Counties.
Provides for the same municipal and county tax distributions as other municipal and county taxes.

STBTC/SB 288 – Overall Analysis

The STBTC Substitute for SB 288 will have a similar effect on municipalities as HB 12, but with two major variations.

First, SB 288 would give local governments more power and control over cannabis businesses within their jurisdiction. Like HB 12, SB 288 also has a section called "Local Control" (Section 9) which would allow local governments to adopt certain regulations and prohibit them from adopting others. However, the regulations a local government could implement under SB 288 would be far more expansive. For instance, a local government would be able to adopt an ordinance that would completely "prohibit […] the operation of a cannabis establishment" as long as the ordinance is done "in accordance with the Cannabis Regulation Act". *See* STBTC/SB 288, Section 9. HB 12, on the other hand, outright prohibits local governments from adopting ordinances which would completely prohibit the operation of a licensee. *See* STBTC/HB 12, Section 12.

Conversely, local governments would also be far less constrained by SB 288. Both bills prohibit a local government from preventing the transportation of cannabis on public roads and from preventing personal production of cannabis. HB 12, though, also prevents local governments from prohibiting or limiting certain signage on cannabis establishments, from requiring existing licensees to relocate, and completely prohibiting the operation of a licensee. SB 288, on the other hand, doesn't prevent a local government from doing those things at all.

Second, SB 288 would give less revenue to municipalities than HB 12. This is because HB 12 allows municipalities to impose an excise tax on cannabis sales at the maximum rate of 4 percent. SB 288, though, only allows municipalities to impose an excise tax on cannabis sales at the maximum rate of 2 percent.

STBTC/SB 288 – Section-by-Section Analysis

Section 5. Department of Public Safety.
Requires law enforcement agencies to submit an annual report to the Department of Public Safety regarding cannabis arrests, citations, and penalty assessments.

Section 9. Local Control
Permits a local jurisdiction to (1) adopt reasonable time, place, and manner rules for cannabis consumption that do not conflict with the Cannabis Regulation Act; (2) prohibit the operation of a cannabis establishment in accordance with the Cannabis Regulation Act; and (3) limit the location of a cannabis establishment to more than 300 feet away from a school, daycare, youth center, public park, or public library.

Also prevents a local jurisdiction from adopting an ordinance which would (a) prevent the transportation of cannabis products on public roads; (b) prohibit personal production; or (c) prohibit the operation of a business that limits its sales to medical cannabis.

Section 39. Municipal Cannabis Tax.
Imposes an excise tax of two percent on cannabis sales within a municipality that can be used for any municipal purpose.

Section 44. Transfer—Revenues from Municipal Cannabis Tax and County Cannabis Tax.
Provides for the same municipal and county tax distributions as other municipal and county taxes.

Section 46. Adjustments of Distributions or Transfers to Municipalities and Counties.
Provides for the same municipal and county tax distributions as other municipal and county taxes.

Cannabis Legalization: Local Revenue Options for the City of Santa Fe

Prepared by Drug Policy Alliance

April 2021

We are the Drug Policy Alliance.

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Introduction

The City of Santa Fe's Community Services Division commissioned a report from the Drug Policy Alliance to assess City of Santa Fe key staff and residents' opinions on cannabis legalization and recommendations on how to allocate revenue from local excise taxes given that the State of New Mexico passed a law to tax and regulate cannabis for adult use in 2021. DPA also researched other local jurisdictions' experiences in other states that have legalized including revenue distribution plans and changes in local ordinances. These findings along with a suggested roadmap for next steps are included within.

Methodology

This report provides an analysis of:

- **A poll conducted between January 16-19, 2021 with 397 City voters, with a margin of error of plus or minus 5% at a 95% confidence level (Appendix A)**
- **Interviews with fifteen City staff (Appendix B)**
- **Findings from the City of Santa Fe's Municipal Drug Strategy Task Force, including findings from 231 interview with city residents. (Appendix C)**
- **Experiences of other local jurisdictions in states post-legalization**

The purpose of this analysis is to offer City of Santa Fe leadership a summary of findings to inform their policy decisions.

"Our reliance on GRT means we are just waiting for the next catastrophe. We need to diversify our economy and have the opportunity to lift everyone up. Legalization would be a new sector of the economy."
—Senior Staff

Analysis

Summary of interviews with staff and residents

A poll was conducted by Change Research between January 16-19, 2021 with 397 City voters, with a margin of error of plus or minus 5% at a 95% confidence level. The poll's primary purpose was to explore public opinion about the use of cannabis funds. Like in most surveys, the poll began with general questions about the quality of life in Santa Fe and top issues in the City. The poll ended with demographic and media questions, as is typical of most surveys.

Cannabis legalization by the State of New Mexico is welcomed by City of Santa Fe residents and City staff alike. Legalization is exceedingly popular among City residents and across all four City Council Districts. Two-thirds of the city staff interviewed indicated that the City of Santa Fe should support legalization; eighty-four percent (84%) of regular Santa Fe municipal voters support legalization.

Benefits to the City would be numerous, leading with new revenue for the City. Importantly, legalization could diversify the City's economy to reduce its reliance on gross receipts tax and create new economic growth from retail, manufacturing, supply chain, and tourism. For Santa Fe's residents, and particularly its young people, cannabis legalization creates new and exciting opportunities for entrepreneurs and residents in the new cannabis industry, particularly in disproportionately impacted communities, assisted by institutions of higher learning, which can provide new job training programs as Northern New Mexico College has recently announced for its El Rito campus.

City residents and staff have identified common needs for cannabis revenue. Combining the views of residents from the survey and staff interviews, key needs include:

- Economic Development: Recovery of Santa Fe's economy and bring back jobs that we lost due to the coronavirus (27% of Santa Fe voters support)
- Housing: Making housing in the city more affordable and accessible for everyone (25% of Santa Fe voters support)
- Community Services: Substance use disorder treatment and mental health services; youth programming; alternative public safety response models (41% of Santa Fe voters support)
- General Fund: Providing a portion of new revenue to the General Fund to provide flexibility as needs arise (24% of Santa Fe voters support)*

** Survey respondents were able to choose more than one category*

Quotes from interviews

"Expanding city services, recreation and afterschool programs to be free and readily accessible to every person in the city." – City Staffer

"They should be earmarked for certain programs. Significant for housing needs, particularly wet housing, for prevention of loss of housing/case management (who may have behavioral health needs), rental vouchers—could be general for any populations who have been impacted, earmark some for youth programming—resilience building, educational programs, making this a high-quality place for people to be, a lot of investment in youth programming, would love to bolster quality and accessibility of city youth programs. Alternative public safety response, case managers. Should be about building the strengths of the community dealing with poverty and imbalance in health outcomes. – City Staffer

"Should go into the general fund, which would allow each council to determine what the city's priorities are, especially as industry grows or contracts." – City Staffer

"Could set a policy that says from general fund these dollars go to certain programs, could use for housing and economic development to nurture entrepreneurs who have never been entrepreneurs before, would benefit our communities."

"I think all of those racial equity proposals should be considered. As a person of color, I know that my race and people of color have been singled out....." – City Staffer

"Legalization would provide critical funding for the City. But we have to use the revenue in a way that reflects what the community wants." – City Staffer

Lastly, residents and staff alike appreciated the opportunity that legalization provides to address disproportionate impacts on people of color. From the polling, popular provisions included removing prior convictions for cannabis possession, and allowing those with prior convictions to work in the cannabis industry.

Summary of Santa Fe's Municipal Drug Strategy Task Force Recommendations

In 2017, the City of Santa Fe passed a Resolution (Resolution No. 2017-77) "to establish a Municipal Drug Strategy Task Force to develop approaches to problems related to both drug and alcohol addiction and policy responses to it by collaborating, studying, gathering input from the Santa Fe community and issue experts, and proposing recommendations for a coordinated drug strategy rooted in public health and safety."

The Task Force met for two years and in 2020 presented the findings and recommendations to the City Council and Mayor.

The recommendations, rooted in feedback from 231 interviews of Santa Fe residents and offered in the Task Force's report *The Santa Fe Plan* (Appendix C), align with the opinions of city voters and city leadership staff on both urging the City to support the legalization and directing tax revenue to support community services.

MDS Recommendation: *Advocate at a state level for cannabis legalization as a way to increase the local tax base and direct funds to treatment, harm reduction, prevention and education. Local excise taxes on adult use cannabis should be used for local social services and support.*

Specific MDS funding recommendations include:

- community-based housing advocacy services to assist with passing policy addressing accessibility and protections from displacement.
- short and long-term affordable and subsidized housing programs and support services that prioritize low-income Santa Feans, people experiencing homelessness or who are precariously housed and who are in danger of being homeless, individuals in recovery, treatment and who are currently using, as well as their families.
- research-driven, culturally, linguistically, and age-appropriate community education.
- coordinated and geographically targeted youth engagement and programming with local stakeholders such as school, community organizations, recreational programs, business associations, etc.
- safe needle disposal public education campaign that may include printed materials, PSA's and a page on the City's website on what to do with found needles, locations of disposal sites, referrals to syringe service programs, and other resources.
- community re-entry programs and services (an example could be to help fund a city/county re-integration center) specifically designed for formerly incarcerated individuals and their families.
- naloxone distribution in non-traditional settings such as grocery stores, and other highly visible public places.
- medical detoxification services located within the City and ensure that it is recognized as part of the continuum of care.
- low threshold, harm reduction focused, drug and alcohol treatment on demand, including mobile treatment.
- innovative approaches to emergency response by SFPD and SFFD staff.

Sample of City Revenue Distribution Post-legalization

Seventeen states and the District of Columbia have legalized cannabis and local jurisdictions in those states have made decision in regards to cannabis revenue distribution. Below is a sample of cities in five legal states (OR, CA, CO, MA, and NJ).

City of Portland

"In November 2016, Portland voters approved a ballot measure authorizing the City to collect a 3% local cannabis tax. The ballot measure specified three areas for which the tax revenue could be used:

- Drug and alcohol education and treatment programs
- Public safety investments to reduce impacts of drug and alcohol abuse
- Support for neighborhood small businesses, especially women-owned and minority-owned businesses[1]"

The revenue was used as follows, reflecting three fiscal years, beginning in 2017 and ending in 2020:

Bureau of Transportation	$5,363,239
Police Bureau	$5,286,891
Office of Community and Civic Life (Cannabis Social Equity Grant)	$1,740,000
Prosper Portland (Inclusive Entrepreneurship Program)	$1,097,126
Housing (only FY 2019-2020)	$600,000

Municipalities in the State of California

"The organizations *Youth Forward* and *Getting It Right From the Start* co-produced a report on 28 Californian cities that legalized recreational marijuana sales since 2016. [...]

It found that in three years, 23 of the 28 cities increased their police budgets by at least 10 percent, as of the 2019-2020 fiscal year. Eight cities saw an increase of at least 25 percent.

The report highlights the example of Greenfield, a small but fast-growing city in Monterey County. Before legalization, Greenfield spent $2.3 million on its police department of about 16 full-time employees. Its police budget has since grown 56 percent to $3.6 million, and the department has more than doubled its workforce, to about 34 full-time employees. [...]

San Diego prioritizes its cannabis tax money for "proactively cracking down on illegal operators." Its neighbor, Los Angeles, spends millions each year on "investigating and enforcing laws relative to illegal cannabis businesses."

An equity initiative to support Black and Brown cannabis businesses in San Diego has stalled because the mayor "prefers cannabis tax money to go to the police.[2]"

City of Denver

"Since January 2014, Denver has collected approximately $294.5 million in marijuana tax revenue, according to the Denver Department of Excise and Licenses, which monitors marijuana taxes and license fees, as well as how that revenue is eventually spent by the city."

2017

Education	$3.6M
Enforcement	$2.6M
Regulation	$2.4M
Affordable Housing	$1.5M

1 "FY 2020-21 Recreational Cannabis Sales Tax." Jessica Kinard, Director, City Budget Office. https://www.portlandoregon.gov/cbo/article/754882.

2 "Californian Cannabis Tax Revenues Are Used to Boost Police Budgets." Alexander Lekhtman. July 23, 2020. Filter Magazine. https://filtermag.org/californian-cannabis-tax-revenues-are-used-to-boost-police-budgets/.

2018

Education	$3.7M
Enforcement	$2.8M
Regulation	$2.4M
Affordable Housing	$1.9M
Improvement to City and Facilities	$10.0M

2019

Education	$3.6M
Enforcement	$2.6M
Regulation	$2.6M
Affordable Housing*	$11.2M
Improvement to City and Facilities	$9M
Opioid Intervention	$3.1M
General fund	<$15,000

* *"Affordable housing's funding bump from 2018 to 2019 came from a 2 percent special marijuana sales tax the city approved in 2018."*

[...]

"The Denver City Attorney's Office required more marijuana money from law enforcement funding ($1.36 million) in 2019 than the Denver Police Department ($1.1 million), while the Denver Office of Children's Affairs, which is in charge of running after-school and summer programs, gained almost $1.6 million from educational funding.[3]"

Pittsfield, Massachusetts

"Marijuana revenue is divided among various savings accounts and the general fund, with 50% going to city stabilization funds, 25% going to a public works stabilization fund and 25% going to general municipal operations.[4]"

Jersey City

"Jersey City Council members James Solomon and Rolando Lavarro have said they want tax revenue from recreational marijuana sales to be funneled to the public schools, which are facing an estimated $300 million budget shortfall. It's an idea the mayor said he supports, and Saturday he tweeted that revenue from medicinal sales should go to the city's Affordable Housing Trust Fund.[5]"

Rochester, NY

"Mayor Lovely Warren is exploring the idea of using revenue from the legalization of recreational marijuana in New York to bridge the equity gap for people of color. Warren says the best way to accomplish this is through the 'payment of reparations' by creating a **Universal Basic Income program** or through a home ownership program.[6]"

A best practice allocation has not emerged as local revenue allocations differ by jurisdiction and range from strictly allocating to the general fund, substance use and mental health treatment, education and policing. However, in recent years, as cannabis legalization has been intently rooted in social justice and equity and as local communities have struggled with police violence and brutality, there is movement away from funding local policing and more emphasis on funding social equity programs to ensure diversity in the new cannabis industry as well as reinvesting funding back into communities most harmed by prohibition. Ideas emerging from New York State to fund universal basic income for people of color and budgeting through a race and social equity lens as Denver is committed to are good examples and should serve as models for the City of Santa Fe to examine.

3 "Here's How Denver Spends Marijuana Revenue." Thomas Mitchell. July 24, 2020. Westword. https://www.westword.com/marijuana/heres-how-denver-spends-marijuana-tax-revenue-11753802

4 "Two years in, pot biz adding up for municipalities." Meg McIntyre. December 7, 2020. The Daily Hampshire Gazette. https://www.gazettenet.com/municipalities-and-pot-37656819.

5 "With dispensaries in the pipeline, Jersey City eyes 2% tax on medical marijuana sales." Teri West. January 10, 2021. The Jersey Journal. https://www.nj.com/hudson/2021/01/with-dispensaries-in-the-pipeline-jersey-city-eyes-2-tax-on-medical-marijuana-sales.html

6 "Mayor proposes using NY cannabis revenue for reparations." Tanner Jubenville. March 25th, 2021. WHAM. https://13wham.com/news/local/mayor-proposes-using-pot-revenue-for-reparations



MARIJUANA EQUITY AND SOCIAL JUSTICE EQUITY THROUGH MARIJUANA TAX REVENUE

From the 2020 report: "The Denver Collaborative Approach: Leading the Way in Municipal Marijuana Management." (Appendix D)

"All our work in Denver is done through a race and social justice lens, and the budgeting of cannabis tax dollars is no different. The Office of Marijuana Policy has made it a priority to ensure the equitable distribution of marijuana revenue, and from 2014 to 2019 we were able to:

- *Dedicate a portion of marijuana taxes that helped Denver double the affordable housing fund from $15 million to $30 million to build more than 6,000 units, which supports housing for many people including those who have been economically disadvantaged due to the failed war on drugs.*
- *$9.3 million of the funds dedicated to affordable housing in 2019 are from Denver's special recreational marijuana tax.*
- *The City has dedicated more than $10 million from Denver's special sales tax on recreational marijuana to fund free after-school and summer programs for youth, with a focus on underserved communities. This education funding also includes support for diversion programs, with a focus on high-need areas in Denver.*
- *Marijuana tax dollars are helping to upgrade parks and recreation centers in Denver, including the opening of Denver's first truly urban style recreation center called the Carla Madison Recreation Center in 2018. Funding for this recreation center included $3.2 million from marijuana tax proceeds.*

Other than committing marijuana tax dollars, through our multipronged approach to cannabis equity, we intend to:

- *Decrease barriers to entry in the industry by exploring financial, technical, and business support.*
- *Create a workforce development tool for those interested in beginning a career in the marijuana industry that would allow for training and professional development.*
- *Promote criminal justice restitution through our Turn Over a New Leaf program.[7]"*

7 "The Denver Collaborative Approach: Leading the Way in Municipal Marijuana Management." City of Denver. 2020. https://www.denvergov.org/files/assets/public/marijuana-info/documents/oel_marijuanareport_2020_c2.pdf

Lessons Learned About Local Cannabis Revenue Allocation and Management

- **Transparency & Reporting Matters – Local jurisdictions should track where the revenue is going and publicly report use of cannabis tax revenues.**

- **Involve community members, cannabis businesses, and others affected by past city cannabis policies in the overall budget decisions.**

"Four years after the legalization of the adult-use market, City Council continues to vote on the Recreational Cannabis Tax Fund allocations as part of the overall city budget, with insufficient community and stakeholder involvement in program and policy development and decision-making.[8]"

- **Make all cannabis-related policy recommendations through a total equity-building lens.**

- **Consider broad scope of economic benefits.**

- **Consider how cannabis fits into the municipality's overall economic vision.**

- **Be cautious with revenue estimates.**

Summary of Passed Legislation: House Bill 2 & Senate Bill 2

TIMELINE

- Act becomes effective 90-days after the Governor signs the bill
- Home cultivation and possession becomes legal on the effective date of the Act
- Production begins Fall '21
- Retail sales to the general public begins no later than April 1, 2022

WHAT IS THE AGE & LEGAL AMOUNT TO POSSESS?

- A person must be 21 years or older to possess, grow, and cultivate cannabis for recreational use.
- Adults 21 & older may purchase up to 2 ounces of cannabis flower, and up to 16 grams of extracts and 800 milligrams of edibles.
- Allows for the growing not more than six mature cannabis plants per person (maximum of 12 per household) and six immature plants per household for adult use cannabis and cannabis products at home. Personal production continues to be allowed for medical cannabis patients.

STATE & LOCAL CONTROL

- Establishes a new division called the Cannabis Control Division within the State Department of Regulation & Licensing.
- Local jurisdictions have some control as well. Jurisdictions may:
  - Enact reasonable zoning, land use & business licensing requirements
  - Prohibit supervised consumption areas
- Local jurisdictions may not:
  - Prohibit local licensed sales, manufacturing, or cultivation of cannabis or cannabis items
  - Prohibit consumption of cannabis in a private residence
  - Prohibit the transport & delivery of cannabis items within their jurisdiction
  - Prohibit personal home grow of cannabis

8 https://www.portlandoregon.gov/civic/article/780184

TAX STRUCTURE

- Gross Receipts Tax and local taxes apply to the value of the adult use purchase.
- An additional 12% excise tax is applied to the sale of the product with 33.33% of the net receipts attributable to the cannabis tax from cannabis retailers within the local jurisdiction.
- Medical cannabis is exempt from GRT and excise tax.

REVENUE DISTRIBUTION

- 100% excise tax goes to the General Fund.

ECONOMIC IMPACT

- A New Mexico economist (Kelly O'Donnell) projects that sales of recreational cannabis could be as much as $318 million in the first year alone, creating over 11,000 new jobs. ** O'Donnell, K. (2019)*

LICENSING STRUCTURE

License/Permit	Fees
Cannabis Consumption Areas	Up to $2,500/year
Cannabis Couriers	$1,500/year; $1,000/year for each additional licensed premises
Cannabis Manufacturers	$2,500/year; $1,000/year for each additional licensed premises
Cannabis Producers	$2,500/year; $1,000/year for each additional licensed premises
Cannabis Producer Microbusinesses	$1,000/year
Cannabis Research Laboratories	$2,500/year; $1,000/year for each additional licensed premises
Cannabis Retailers	$2,500/year; $1,000/year for each additional licensed premises
Cannabis Servers	$35 max. for a 3-year permit
Cannabis Testing Laboratories	$2,500/year; $1,000/year for each additional licensed premises
Cannabis Training and Education Programs	Will be permitted
Integrated Cannabis Microbusinesses	$2,500/year; $500/year for each additional licensed premises
Vertically Integrated Cannabis Establishment	$7,500/year; $1,000/year for each licensed premises; Not to exceed $125,000

** An additional annual fee no greater than $50.00/cannabis plant will be assessed to any licensee cultivating cannabis plants, except for cannabis producer microbusinesses and integrated cannabis microbusinesses*

PROTECTING OUR YOUTH AND PUBLIC SAFETY & HEALTH

- A Public Health Advisory Board is created to monitor cannabis use patterns and emerging data relevant to the health effects associated with legalizing cannabis. Annual reporting from Dept. of Health is required and must include information about youth access to cannabis; road safety and driving while impaired; workplace safety; percentage of emergency room visits and outcomes involving cannabis use; educational needs for youth and adults; consumer and product safety; and the percentage of poison control center calls involving cannabis use.
- Advertising and marketing is prohibited on TV, radio, on public transit except to adult subscribers of subscription-based radio, television, or other broadcast media and adults who have solicited the advertising and marketing.
- Advertising shall not be false, deceptive or misleading including making health benefit claims not supported by the published results of research recognized by the FDA.
- Banning advertising that uses predatory marketing and practices targeting minors.
- Advertising shall not use cartoon characters or be designed to mimic any other product brand or depict consumption by children or other persons who appear to be younger than 21 years of age.
- All items must be labeled & placed in re-sealable, child resistant packaging that shall not be designed to be appealing to children. A logo distinctive in design, color, size and location must be placed on the packaging notifying that the package contains cannabis. Packaging shall also include a warning of possible adverse effects of consumption and the NM poison and drug information center phone number.
- Cannabis retailers or integrated cannabis microbusinesses shall be located at a minimum distance as determined by the local jurisdiction, but which distance shall not be any more than 300 feet or more from a school, church or daycare center that was in existence at the time the retailer or microbusiness was licensed.

- It is UNLAWFUL to: drive while under the influence of cannabis; smoke, vape or ingest cannabis in a public place (unless when permitted in an establishment under the Act); or, possess, smoke, or ingest cannabis or products on school property (exceptions for medical cannabis patients and caregivers).
- Licensees that knowingly sells cannabis products to a person younger than 21 years of age on two separate occasions within a 12-month period shall have their license suspended or revoked and may be fined in an amount up to $10,000.

PROTECTING THE MEDICAL CANNABIS PATIENT & PROGRAM

- Keeps the medical cannabis patient registry at the Department of Health.
- Exempts medical cannabis sales from the gross receipts tax (GRT), making it like other medications. Ensures that medical cannabis will not be subject to the excise tax charged on adult use cannabis.
- Requires all retailers that sell cannabis for adult use to also sell medical cannabis.
- Requires the Division to take reasonable measures to ensure there is enough cannabis supply in the medical program.

PROTECTING THE ENVIRONMENT

- The regulatory agency must work with the Department of Agriculture, the Department of Environment and the State Engineer to establish rules governing pesticide use, environmental impacts, natural resource protections, water quality, water supply, hazardous material, and wastewater discharge.
- Requires licensees to:
    - Submit a plan to utilize energy and water reduction opportunities, including: drip irrigation and water collection; natural lighting and energy efficiency measures; and renewable energy generation.
    - Demonstrate the legal right to a commercial water supply, water rights or another source of water sufficient to meet the water needs related to the license.

SUPPORTING NEW MEXICO BUSINESSES AND WORKERS

- Creates a licensed cannabis training and education program and mandatory education for any person who is hired to serve cannabis or cannabis products.
- Allowing for “microbusiness” licenses that will help small family farms and entrepreneurs enter the market with lower capital costs.

REPAIRING THE HARMS OF PROHIBITION

- Automatically expunges public records, two years after the arrest or conviction, held by a court or state or local jurisdiction relating to offenses involving cannabis that are no longer a crime on the effective date of the Cannabis Regulation Act, or would have resulted in a lesser offense.
- Requires correctional facilities and jails in which persons are currently incarcerated or who have been incarcerated in the past for offenses that are no longer a crime under the CRA, or would have resulted in a lesser offense, to notify the court that those persons’ cases may be reopened to consider dismissal of their sentences or to have their cases expunged.
- Amends the Criminal Offender Employment Act to include in the list of criminal records that may not be used or disseminated in connection with applications for public employment or licenses convictions that have been sealed, dismissed, expunged or pardoned; juvenile adjudications; and convictions for a crime that is not job-related for the position sought and consistent with business necessity
- Removes misdemeanor convictions involving moral turpitude from the permissible causes for denying, revoking or suspending public employment or a license to engage in a trade, business or profession and removes an agency’s authority to deny public employment or a professional license for convictions that do not relate to a particular employment position if the agency determines the convicted person is not sufficiently rehabilitated to warrant the public trust.

- Prohibits a professional licensing board from excluding from licensure an otherwise qualified person solely because the person had been arrested for or convicted of a crime, unless the person has a "disqualifying criminal conviction."
- Allows individuals with prior cannabis convictions to work in the new cannabis industry and to apply and receive a license.
- Authorizes the Executive to enter into intergovernmental agreements with Indian Nations, Tribes, Pueblos regarding the implementation and compliance in connection with legalization.
- Creates two microbusiness licenses that would create an opportunity for small businesses to enter the marketplace and allow the producer micro to start at the same time as existing medical cannabis licensees; requires licensing fees to be scaled on the size of the business
- Requires procedures that promote and encourage full participation in the cannabis industry by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy, rural communities likely to be impacted by cannabis production and agricultural producers from economically disadvantaged communities;
- Requires procedures that promote and encourage racial, ethnic, gender and geographic diversity and New Mexico residency among license applicants, licensees and cannabis industry employees;
- Requires a certification to identify products for consumers from licensees that are integrated cannabis microbusinesses or cannabis producer microbusinesses or owned by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy and underserved communities that include tribal, acequia, land grant-merced and other rural historic communities;
- Requires the development of a technical assistance/resource guide for rural New Mexico residents who are seeking to establish a cannabis business.
- Requires the Division to collect and publish annually on the division's website, and present to the appropriate interim committee of the legislature, a report describing demographic data on license applicants, controlling persons and employees of cannabis establishments, including race, ethnicity, gender, age, residential status and whether the applicants, persons, employees or the location where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced or other rural historic communities.
- Decriminalizes and eliminates all fines and fees for minors who violate the Act.
- Allows for personal grow.
- Creates a standalone cannabis consumption area license type
- Removes license requirement for medical personal grow
- Creates protections for the use of cannabis:
    - Prohibiting police from stopping and searching an individual or vehicle based on the smell of cannabis alone.
    - No denial of public benefits or health care based on cannabis use or a positive cannabis drug test.
    - Prohibiting prior cannabis convictions to bar anyone from licensure or employment of any kind.
    - Child welfare: A person shall not be denied parental rights or custody of or visitation with a minor child by the state or local government based solely on conduct that is lawful pursuant to the Cannabis Regulation Act.
    - A person currently under parole, probation or other state supervision or released awaiting trial or other hearing shall not be punished or otherwise penalized based solely on conduct that is lawful pursuant to the Cannabis Regulation Act unless prohibition on the use or possession of cannabis has been a specific condition of parole, probation or other state supervision or release awaiting trial or other hearing.

PENALTIES

	HB-2
Licensees – Sanctions – Civil Penalty	The division may: suspend or revoke a license; impose intermediate sanctions; impose a directed plan of correction; assess $10,000/per violation of the CRA; or suspend or revoke the license.
Protection of Underage Persons – Providing Products to Minors - Penalties	It is a violation to sell, serve, give, buy, deliver to a person under 21, or assist a person under twenty-one to buy, procure or be served cannabis products. Division shall suspend or revoke the license and may fine the licensee in an amount not to exceed $10,000, or both. A person can be charged with "delinquency of a minor "- 4th degree felony.
Cannabis Industry Mandatory Education—Applications—Permit Required—Education Program Approval Required—Issuance or Denial of a Permit or Approval—Penalties	For sales, service, or dispensing a cannabis product to a person under 21, the division may suspend a permit for 30 days on first offense, for 1 year on second offense, or permanently on third offense.
Limits on Personal Use – Penalties	Smoking in public = Civil penalty of $50
Personal Production –Cannabis	21+ • > 6 plants and up to 12 mature or immature plants = penalty assessment & fine of $50 • >12 mature or immature plants = 4th degree felony 18+ but less than 21: • Up to 6 mature cannabis plants = penalty assessment & fine of $50 • >6 mature or immature plants and up to 12 mature/immature = misdemeanor • >12 mature/immature = 4th degree felony Under 18: • Any amount = attendance at a four-hour evidence-based drug education and legal rights program at no cost to the minor; or four hours of community service
Unlicensed Sales - Penalties	Under 18: • Attendance at a four-hour evidence-based drug education and legal rights program at no cost to the minor; or (2) four hours of community service 18+: misdemeanor • Unlicensed sales from a building, room or other area open to the public: 4th degree felony
Restricted Areas – Penalties	Shall not possess or distribute in schools or daycare except per the Lynn and Erin Compassionate Use Act.
Unlawful Possession	Under 21: • Attendance at a four-hour evidence-based drug education and legal rights program at no cost to the minor; or four hours of community service 21+: • More than 2 and up to 8 ounces of flower or more than 16 grams of extract, and more than 800 mg of edible cannabis = misdemeanor • More than 8 ounces flower= 4th degree felony
Unlicensed Manufacture of Extracts	4th degree felony

Proposed Road Map & Recommendations

There are many decision points, considerations, and updates the City needs to address. Below is a sample table with a few of the significant decision points.

Relevant Policy for City	Decision Points	Timeline	City Department
Local Control	Update relevant City policies (e.g. land use, zoning, fire codes, and related regulations), such as places where cannabis licensees should not be located (e.g. next to an elementary school). These updates should keep in mind equity considerations for Santa Fe residents and neighborhoods 1) adopt reasonable time, place and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses 2) Decide if the City of Santa Fe will allow supervised consumption areas	August 1, 2021 (Production licenses can start no later than Sept. 1, 2021. All other licensed activity will be licensed no later than Jan. 1, 2022)	Land Use Economic Development Community Health and Safety (SFFD) City Council (#2)
Policing	Update City ordinances and police policies. • See penalty table in above section. • Police are now prohibited from stopping and searching an individual or vehicle based on the smell of cannabis alone. • Home grow is allowed; up to 6 mature/6 immature plants. If more than one adult in the household no more than 12 mature/12 immature. • Recommended ordinances needing updating: 1) 20-6 -1: Marijuana and Marijuana Paraphernalia Possession 2) 16-15.2: Possession, delivery or manufacture of drug paraphernalia prohibited; exceptions.	By July 1, 2021 (home grow and possession will be legal July 12, 2021)	Community Health and Safety
Municipal Cannabis Tax	Develop a plan for local expenditures and revenues. Sample revenue plan based on data collected and analyzed for this report: • 40% to Community Services: Substance use disorder treatment and mental health services; youth programming; alternative public safety response models (see recommendations in MDS section above). • 40% to Community Development: Making housing in the city more affordable and accessible for everyone; Recovery of Santa Fe's economy and bring back jobs that we lost due to the coronavirus including providing support/assistance for small business owners/equity applicants to get licensed in the new cannabis industry. • 20% to General Fund: Providing a portion of new revenue to the General Fund to provide flexibility as needs arise.	By January 1, 2022 (sales will start no later than April 1, 2022 – Regulation and Licensing Dept. can move that date up if they are ready).	Finance City Council
Employer/ Employee Protections	Evaluate whether City Employee policies need to be updated. See section 34 of the Act. Inform employees and are informed of workplace rights relating to cannabis use. Recommendation: Consider aligning city employee off-hours cannabis use with the existing off-hours alcohol use policies	July 1, 2021	Human Resources

Cannabis User Protections	Review city ordinances/policies/procedures to ensure: • No denial of public benefits or health care based on cannabis use or a positive cannabis drug test. • Prior cannabis convictions cannot bar anyone from licensure or employment of any kind. • Child welfare: conduct allowed under the new law shall not in itself constitute grounds for intervention, removal or placement into state custody of a child; provision of state prevention, diversion or intervention services to the individual's family pursuant to the Family Services Act; denial of custody or visitation; and, presumption of neglect of child endangerment. • A person currently under parole, probation or other state supervision or released awaiting trial or other hearing shall not be punished or otherwise penalized based solely on conduct that is lawful pursuant to the Cannabis Regulation Act unless prohibition on the use or possession of cannabis has been a specific condition of parole, probation or other state supervision or release awaiting trial or other hearing. • Removes misdemeanor convictions involving moral turpitude from the permissible causes for denying, revoking or suspending public employment or a license to engage in a trade, business or profession and removes an agency's authority to deny public employment or a professional license for convictions that do not relate to a particular employment position if the agency determines the convicted person is not sufficiently rehabilitated to warrant the public trust. • Amends the Criminal Offender Employment Act to include in the list of criminal records that may not be used or disseminated in connection with applications for public employment or licenses convictions that have been sealed, dismissed, expunged or pardoned; juvenile adjudications; and convictions for a crime that is not job-related for the position sought and consistent with business necessity		Human Resources
Automatic Expungement and Consideration for Release	Automatically expunges public records, two years after the arrest or conviction, held by a court or state or local jurisdiction relating to offenses involving cannabis that are no longer a crime on the effective date of the Cannabis Regulation Act, or would have resulted in a lesser offense.	On or before January 1, 2022, the department of public safety shall review the public records in the state criminal history databases and shall identify all past convictions that are potentially eligible for dismissal and expungement or redesignation pursuant to the Cannabis Regulation Act. The prosecutor of the case shall have until July 1, 2022 to review all cases and determine whether to challenge the dismissal and expungement or redesignation.	City Prosecutor/ Municipal Court/ City Public Defender

Appendices

Appendix A: Survey Findings

City of Santa Fe residents are firmly satisfied with their quality of life, have clearly defined community needs, and are strong supporters of cannabis legalization with revenues reinvested back into the community. Key findings include:

How satisfied are you with the quality of life in Santa Fe?
74% satisfied
25% unsatisfied

What do you believe should be the top priorities for the Santa Fe city government? Please choose two.
55% Recovery of Santa Fe's economy and bring back jobs that we lost due to the coronavirus
47% Making housing in the city more affordable for everyone
34% Managing the distribution of the coronavirus vaccine
32% Reducing crime and keeping our communities safe
25% Managing the city and its budget effectively
20% Expanding access to substance abuse treatment and mental health services
13% Addressing racial discrimination
11% Dealing with issues related to the destruction of the Obelisk

Do you support or oppose a proposal to legalize, tax, and regulate cannabis, also known as marijuana, sales to adults 21 and over, with provisions in place to ensure the tax revenue is reinvested back into communities?
Citywide: 84% support, 14% oppose
District 1: 86% support, 10% oppose
District 2: 90% support, 9% oppose
District 3: 69% support, 24% oppose
District 4: 81% support, 18% oppose

If cannabis is legalized, what should be the priority for where the revenue generated from it goes? Please choose two.
41% Community services
38% Substance abuse treatment
28% Behavioral health
27% Economic development
25% Housing
24% General Fund

Appendix B: City Staff Interview Findings - Summary

The City would receive numerous benefits from cannabis legalization, including:
- Revenue (15 of 15 respondents)
- Economic diversity (4 of 15 respondents)
- Economic growth from retail, manufacturing, supply chain, and tourism (5 of 15 respondents)
- Entrepreneurial and job opportunities (3 of 15 respondents)
- Job training opportunities for institutions of higher learning in Santa Fe (4 of 15 respondents)

An important opportunity is removing prior convictions for cannabis possession for thousands of Santa Fe residents, and allowing those with prior convictions to work in the cannabis industry (13 of 14 respondents).

New revenue from cannabis legalization is sorely needed. There are numerous programs that could benefit, including:
- Substance use disorder treatment and other behavioral health services (6 respondents)
- Affordable housing (7 respondents)
- Youth and senior programs (2 respondents)
- Creative public safety solutions, such as increased case management and harm reduction services (4 respondents)
- Providing a portion of new revenue to the General Fund to provide flexibility as needs arise (9 respondents)

If cannabis is legalized, the City would need advance time to plan for implementation, including the following considerations:
- Develop a plan for expenditures and revenues
- Have a structure in place for tax collection
- An update to relevant City policies, such as places where dispensaries should not be located (e.g. next to an elementary school)
- Updating land use, zoning, fire codes, and related regulations and laws

Appendix B: DPA / City of Santa Fe Interviews

Wearing your hat as just a resident, what are the 1-2 best things about Santa Fe right now?
- People. Array of people and concentration of interesting people. Committed people, who care about things. Peaceful place.
- Access to outdoors. Typically I would say has advantages of a big city in a small town. In this climate, combination of being a capital city with arts and culture.
- Outdoors is still open and free;
- Community collaboration, people who are willing to work with each other at different organizations; creativity,

located in an interesting geographic nexus
- Culture and diversity.
- The diversity, in the broadest sense. Is a very worldly city. Lots of perspectives.
- Culture. Art. Very international city. People talk to each other.
- I'm even more appreciative of the quality of life, outdoors, and weather. On a professional level, we've opened doors we never would have opened before. Even though we're a bureaucracy, we have shown that we can be responsive.
- Access to walking and hiking trails, having small community feeling
- All in this together. Community feel.
- Resilience and cohesiveness in the face of COVID. Our residents' behavior displays respect for science. Community comes together. Mask ordinance. Raising money for folks in need.
- Natural assets. Proximity to the mountains. Clear skies. Landscapes. Scale of the city. Cultural amenities, amenities in general for town of this size.
- Recreation and afterschool programs are some of the most affordable, reputation for how good those programs are—pre-covid. Libraries and senior centers, community serving programs.
- The city seems to be focusing on trying to address those in the greatest need, w/r/t COVID and services. It's a beautiful place. Not a ton of people.

Again, speaking as just a citizen, what are the 1-2 biggest challenges facing Santa Fe right now?
- Inequity. Very wealthy people, and very poor people. Not a lot of communication between the two, not a lot of understanding by people with wealth of other communities. Distribution of resources, and gathering of revenue. Concerned about opiate overdose and suicide, esp for young people.
- Increased living costs. And tourism impact. Businesses benefited from tourism impact they are facing.
- Level of fear that we are having a tough time (economic, health); young people are not seeing a future
- Economy, people are suffering because of it
- Lack of professional health. Lack of behavior health.
- The pandemic and the response to the pandemic. Testing, access to testing, vax rollout. Economic recovery.
- Education is a big issue. Growing chasm between haves and have nots. Demarcation. People with second homes, elite community, problems associated with that.
- Basic needs aren't being met, will only accelerate. Food, support services, housing, even people who are fully employed. There is an inequity, lots of people who don't have access to outdoor resources. Too small of a place to have that be one of our problems. We should all have access.
- Tourism industry, lack of housing
- How to support tourism industry, all of the ways we infuse our economy
- Economic challenges.
- Complexity of life—speed and rate of change, how dynamic things are, ability to keep pace with tech. Deep divisions, reconciling seemingly irreconcilable worldviews. Balancing growth with available water. Social issues, mental health, homeless issues, poverty and systems that interface with those problems.
- Housing. Homelessness. Substance abuse—opiate epidemic. A lack of treatment options and behavioral health options. I was raising my teenage niece and finding low cost behavioral health options was really difficult.
- Addressing vaccination. A lot of things because of COVID that have been neglected—roads, parks, facilities. How are we going to get things going again? Economic situation is a problem. Huge increase in cost of housing. Help Santa Fe keep its identity.

What should the City's position be on legalization of cannabis? What benefits does the City receive if the state were to legalize?
- City should be in favor. Revenue, and boost to local businesses who might engage. Decriminalization, fully, and ultimately less harmful than alcohol. Destigmatization.
- Should be supportive. Would hope that we are going to get some revenue, and that those could be put to good use. Being excluded from statewide would be a detriment because of tourism. Being against would be

inconsistent with residents' political views. Area that we've carved out that's over regulated compared to risks.

- City leadership welcomes the legislation and opportunity, looking for any ideas for innovation, and have seen this all blossom around us, instead of being 40th, we can be 20th. If it passes, let's jump on it!
- Benefits — funding, if we're able to tax, we'll be able to build out city; we have to be very community focused in terms of policies. Are we going to have investors from CO? Not locals? Benefits — schools, infrastructure. Has to be done in a way that we understand what the community feels, to make sure that we do it in a way that reflects.
- Kind of on the fence. I think it should be legalized, could generate revenue. Revenue would benefit community, to create professional services. Participated in training, used CO as model, for every dollar earned, $7 in expenditures.
- If the policymakers decide to legalize cannabis, from financial perspective, there would be an increase in expenditures in associated regulatory, oversight and monitoring, to impacts of having new industry. Could be everything from education to general public, to school aged children, dealing with health impacts that arise from legalization. Would need additional revenue source to utilize to put toward funding expenditures. Timeline—need to be able to plan for expenditures and revenues, timing before retail begins. Structure in place for tax collection, will there be new technology, city policies that need to be updated, from initiation all the way through the impacts on the community and users and anyone else impacted, updating land use, fire codes if indoors, ultimate taxation and retail piece. Transportation of what is currently a cash industry. How cash is transported safely from retail spot to banks. Benefits - with the creation/expansion of any new industry, the benefit is expanded economic growth, which means an increase in GRT generated by local businesses, will be a supply chain associated as well. Expanded economic base, whether directly or indirectly from supply chain.
- There will be costs associated. Will need enough of revenue source to cover expenditures.
- I don't know if the city should take a position. City is very excited about more GRT, or additional revenue funds. Personally think it's a good idea. Benefits—more funds. There would be spin off benefits—more retail businesses, get manufacturing, tourism.
- I think the city should participate in it. Funding should be used for diversion programs for all substance use disorders.
- Leave determination of position up to the city. Monetary support, ensuring benefits come directly back to the city.
- Benefits— we would focus on the financial benefits, but historically we have had a misuse of resources for law enforcement and people's lives disrupted because of low level infractions and underground economy and all of that could be cleaned up by recognizing that cannabis is not everything it's been accused of. If handled by adults, it's not all that different from alcohol. Social benefits, law enforcement benefits, and there are economic benefits, if we were to legalize, regulate and tax, we would see an entrepreneurial economy, craft cannabis producers and markets, we wouldn't get overwhelmed by national brands, growth of a variety of parts of the economy. People have wine cellars, fancy corkscrews. The longer we wait, the more likely we are to miss out on our own NM industry. I don't think it will be a financial panacea, but SF is struggling with revenue, because we mostly rely on GRT and a small amount of property tax. It would add another leg to the financial stool.
- I think we should be in support of legalization because it brings a new revenue source. Our reliance on GRT means we are just waiting for the next catastrophe. Diversify. Has the opportunity to lift everyone up. Create a new sector of the economy.
- I think that all drugs should be legalized, don't condone drug use, because criminal behavior that results from drug use is criminal but use itself is not criminal. Drugs are self-medication for real significant issues. Drugs are imposed on top of that. City should support legalization. — Exporting local dollars to CO right now, wonder but don't know but would assume that legalizing rec cannabis cuts into the market share of illegal drug trade, so brings some of that revenue above board. Revenue and reduction of criminality. Reducing black market. Diversifying revenue streams. Messaging of — substances regardless of what they are, adults have a choice to use or not to use. Root issues need to be addressed.

- Definitely think it should be legalized. Biggest benefit would be revenue. Funding could benefit community, direct service programming, recreation for youth, would be able to give folks opportunity to get into high quality treatment programs, bring programs into Santa Fe (city or county). First step to reducing stigma around different substances in the community.
- I feel like the city needs to support it, but cautiously, because we don't know who will oversee it. How will it be rolled out? These things are important to know. Like state run liquor stores in Utah. Who gets the taxes? Benefits depend on how it is structured. How does the city gain the most revenue possible from this? Can the city ask for more tax? Will buying in Espanola be cheaper? Economic benefit but not so dictatorial. Revenues but what are they? Need to be able to keep things going.

If the state were to legalize recreational cannabis use, how would you feel about adding policies like removing prior convictions for marijuana possession, allowing people who had a past cannabis conviction to work in the new industry or prohibiting the use of prior marijuana convictions to bar people from employment or benefits?

- Yes, yes, yes—as long as they aren't driving under the influence.
- Fine with all of those.
- I think all of those should be considered. Big issue around cannabis, as a person of color, I know that my race and people of color have been singled out as it relates to three strikes laws, urban centers and cities, and underground business has become legitimized
- we want to foment as much entrepreneurship as possible, lift barrier for people of color in cannabis industry
- I would be in favor of removing convictions, would open opportunities. Where I'm unsure is that we get random drug testing, would that still be restriction? Have terminated people in the past. How would public receive a responder if we were allowing recreational use?
- from professional perspective, don't have
- In support of these. Ensuring that business support programs are equitable. Community colleges should support programs. Biz incubators.
- employment, is okay with, doesn't want people to be barred. Yes to removing prior convictions, angle of employment, difference between misdemeanor and felony,
- I think people have been wrongly convicted of cannabis infractions, I'm not sure about it relates to hiring. Prior convictions should probably be removed.
- Yes, no, yes. Have to regulate somehow. Previous convictions should not prohibit benefits and employment.
- Should reach into the past, even if it was illegal then. Wiping out previous conviction for dealing is different than for possession.
- Yes on all of them.
- Agrees, except on things like distribution.

If Santa Fe were to receive recurring revenue from legalization, should those funds go into the City's general fund or to a specific program? Which one? Why? [If it doesn't come up, ask] What about affordable housing? Substance abuse and treatment programs? Economic development?

- They should be earmarked for certain programs. Significant for housing needs, particularly wet housing, for prevention of loss of housing/case management (who may have behavioral health needs), rental vouchers—could be general for any populations who have been impacted, earmark some for youth programming—resilience building, educational programs, making this a high-quality place for people to be, a lot of investment in youth programming, would love to bolster quality and accessibility of city youth programs. Alternative public safety response, case managers. Should be about building the strengths of the community dealing with poverty and imbalance in health outcomes.
- Would be good to dedicate to specific for some period of time, and then reassessed. Drug treatment programs, social mobility programs. If it went to general fund, we could allocate to housing. Don't want to tie hands.
- Ask community.
- Tough to answer. Could set a policy that says from general fund these dollars go to certain programs, could

use for housing and economic development to nurture entrepreneurs who have never been entrepreneurs before, would benefit our communities.

- I would agree with substance treatment, but should fund public safety. Public safety depends on general fund. Should go to public safety.
- Should go into the general fund, which would allow each council to determine what the city's priorities are, especially as industry grows or contracts
- general fund for flexibility
- It's tempting to use it all in general fund, but probably not best policy. Setting up determination of where funds should go should not happen at the onset, because we need to see where needs are. Would want rules to be as flexible as possible. Tempting to use funds that feel like new money to invest in capital projects, because you want to be able to point to something that is complete. Big mishmash. One of the advantages is that we have such a highly developed and capable networks of non-profits in the area of community development. Fund them to provide programs. When housing non-profits use money, know that it's going to be community benefits.
- Treatment and not just directly into general, but some should go to law enforcement for training and gear and equipment
- To me it makes sense that it should go into general fund and city could allocate as need—that being said, the general fund can swallow things up, but funds allocated mental health, social services, libraries, education. In CO saw skyrocketing social services, homelessness, because people were moving hoping to work in the industry. Could put pressure on resources, should be supported. Libraries!
- I do believe that given what we know about the problem of drug and behavioral health issues, I think there should be some funds set aside for treatment and prevention. Not done by city, but more programs to help people. Options In northern NM are very limited. State or regional, specific and concentrated effort to provide prevention and treatment. Re city: I think we're looking for sources of funding for affordable housing trust fund. Would be very worthwhile revenue stream into trust fund. Was proposal to move GRT to affordable housing, but not new money and not dependable. Much more thoughtful and creative to get new revenue stream that will likely grow over time and not fluctuate. Stream that would be productive. The rest should go into general fund. When you're a one trick pony, all it takes is one event to hurt economy.
- It should be split, part to general and part to housing, bc general fund is so reliant on GRT and so volatile. Things come and go. Planning 1 and 5 years. We were just coming out of 08 recession and 2021 was supposed to be banner year. What does five years from now look like?
- Would like to expand into public safety in case mgt and harm reduction services, reduce system costs. Nexus on mental health and substance use. Public health efforts—systems on the public safety side have been scaled in a way that is clunky, outdated. Though would love for it to be spread out, would prefer to be used to create systems within two departments that have strong labor unions, resistant to change, to be used to explore new models. Alternate models of public safety—defined broadly (not just cops and firemen!).
- Some suggestions: expanding city services, recreation and afterschool programs to be free and readily accessible to every person in the city. Not just city programs—similar to Iceland, whether it's jujitsu or painting, want city to be able to pay for that. Diverse substance abuse programs—could mean anything as radical as models in Seattle and Vancouver—safe injection sites, etc. Not just treatment, not just one size fits all—staff were really focusing on that. Same thing with housing—should be as diverse as people themselves. Economic development—believe it is important to grow our community, to open up opportunities, especially in mixed status (immigration) households. To grow educationally in our communities, undocumented folks to get business licenses.
- Would be good to build up a rainy day fund but not in place of services. Money should go into the general fund. Or a 60/40 thing, splitting it. Everybody is using it, so should be a benefit of it for everyone. Yes to treatment. Because of the aging piece, older adults have a responsibility to take care of themselves, costs less, but funds are more toward higher need programs, not prevention—paradigm shift toward getting people up and moving and doing things.

Are there 1-2 policies related to cannabis legalization you'd want to put in place for Santa Fe if legalization occurs at a state level?

- I don't know. Generally non-punitive policies.
- Zoning, land use. Event permitting?
- Should set up term that can be no more than 30% investment from out of state, or 10 yr moratorium on outside franchises
- People who have resided in Santa Fe who can reap benefits — center on local residents.
- taxation policies, to be able to match add'l expenditure, oversight in addition to regulation, whether state or local governments' ordinances, ultimate policy goal is to keep citizens safe, how we set speeding level is safety for each street and each community, which would be increase in budget as well, need time to be able to set out that framework, from start to finish (production to consumption)
- Have pretty strong regulatory framework, we as a state have problem with DUIs
- Land use code would be easily adaptable to create restrictions around physical location. Concern about home based business, around equity issue. The use of the funds needs to be connected to demonstrated need. Have to start from perspective of, what is the hierarchy of community? Need to be strategic. Universal based income—go directly to community.
- all about treatment all the way around for all narcotics, LEAD primarily just for opiates, could include people addicted meth, alcohol
- Reiterating funding needs to be available to help with mental health, social services, more funding for treatment, and early childhood education.
- Already looking at things that we've identified, number of factors. Zoning and signage issues—we do this now with checking out alcohol licenses, whats the concentration, location, places you don't want dispensaries, signage that needs to be handled in community focused way, Will need to have a national approach, testing for people who are driving while impaired or operating machinery. CO firm experimenting with something like breathalizer. How we would proactive some form of enforcement. Other thing we should be conscious of is that this is legalization of cannabis for ADULTS. Issues we've seen around packaging and marketing and accessibility to younger people. Medical evidence about brain formation. I don't think anyone thinks that's okay.
- Yes. Maybe it's housing piece. Partnership with education. If there is a way to build over the next five years a fund of joint excellence, would be amazing. How do we tie in arts community, need for reconciliation? Creating pipeline for local youth. Regulation at a state level. Tie it in with mental health services and wraparound care.
- Expungement of criminal records. Have heard of other states that try to create job opportunities for people most impacted by war on drugs. If alcohol were illegal and they were making it legal, would hope that they would—strong component should be education on effects of different substances. Something that allows people to make an informed decision. PSAs suggesting moderation, detrimental and positive effects. Particularly targeted at younger population. Healthy lifestyle, promoting health.
- Expunging records for folks, including folks who are terminated at the city for cannabis use.
- Feds aren't going along with it yet, and we have people that are drivers and have to have a CDL and are randomly tested. Some of the other work that we do requires people to be somewhat on their game to be able to do it. Don't want to jeopardize that stuff. Jobs people will be doing that they can't use—how will the city address that? City will have to make their policies know on usage, just like clear policies on drinking. If we are using federal money, feds require certain things, like drug tests.

Anything else you would like to share on this topic?

- A really positive opportunity for local communities in NM who have been under resourced to address equity issues, to address imbalances in funding human services. Have seen public safety, funding going to jails.
- If there is any sort of estimate of revenue, would be interested in learning. What about dispensaries?
- Pueblo casino phenomenon, outside money coming in, actual pueblo didn't get total say; ensuring we have sovereignty over the business. Excited about this legislation! We have a vested interest, it's an untapped industry sector. Think about all of the supply chain, distribution chain, population can age in place, health and wellness. Minimize school to prison pipeline, funding going to supplement support.

- I think that rec use should be legalized.
- Is a very big endeavor, implementation takes an immense amt of resources, community engagement, takes a tremendous amount of effort and time to set everyone up for success, need for fair amount of realization. Opt-in vs opt-out adds to timeline for local governments. Being able to take a look at what other communities have done. Can you overtax an industry? What would be the right amount for that? Will need to take lessons learned to craft best package at state level and bringing decisions to governing body
- The advantage we have is that we are not the first— CA and their hiccups, CO and their hiccups, can look at lessons learned.
- Why wouldn't New Mexico try this? Huge opportunity. Decriminalization is such a better way to deal with drugs, helping people get better.
- Interesting to watch what happened in Pueblo—there was a real divide where non-profits felt very unsupported, some closed down because they couldn't handle the demand, I still don't feel like there was a marked benefit. Look at how other states have done it.
- NM is a state with a lot of very unique characteristics. Only something like Hatch chile, Gruet, Los Poblanos, but for the most part we've underperformed in branding unique products. Lamb, beef, other consumables, beginning to get spirits, Taos branded bars. Given growing climate and history of agriculture, ability to produce products of real quality, could have NM branded cannabis designs or products. Rather than apologizing for it, what if we said, this is an opportunity for people to be entrepreneurs, farmers, growers, you don't need an MBA. People who have been left out.
- I think this is a huge opportunity for the state to expand our revenue sources and create opportunities for the economy. Covid=reliance on gig economy—only avenue right now. If we can create another stream parallel to the gig economy that allows for people to have a stable lifestyle, why wouldn't we? It's going to happen, so why not get in on the ground floor.
- Assuming most things are a given—not to minors, not next to elementary schools.
- Should also be a focus on youth, not just on prevention and intervention, city and state lack youth substance abuse programs. Would be great to use revenue to support those programs. Prevention is so important. That's where my heart is and where the work I do now is. Statewide, would be great for it to go to the municipalities.
- Friends who are medical owners and worried that it will bring big business in.

Interviews Completed

- Paul Babcock, Fire Chief
- Rich Brown, Director, Community & Economic Development
- Liz Camacho, Economic Development and Communications Administrator
- Alexandra Ladd, Director, Office of Affordable Housing
- Jarel LaPan-Hill, City Manager
- Alexis Lotero, Budget Officer
- Mary McCoy, Director, Finance Department
- Erin McSherry, City Attorney
- Andres Mercado, Battalion Chief, Santa Fe Fire Department
- Kyra Ochoa, Acting Director, Community Health & Safety Department
- Andrew Padilla, Chief of Police
- Gino Rinaldi, Director, Senior Services Division
- Julie Sanchez, Director, Youth and Family Services Division
- Maria Sanchez-Tucker, Director, Library Services Division
- Alan Webber, Mayor

Appendix C: The Santa Fe Plan: A Municipal Public Health and Safety Approach to Alcohol and Drugs

The Santa Fe Plan: A Municipal Public Health and Safety Approach to Alcohol and Other Drugs

February 2020

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Executive Summary

"As mayors, we know that a shift away from punitive responses to drugs is possible. Our two cities, like communities large and small across the country, bear the burden of a half-century of disastrous drug policies that have wrought two epidemics: Mass incarceration and skyrocketing overdose deaths. As people elected to serve, we have a moral obligation to do something different, something better."

—Mayors Alan Webber (Santa Fe, NM) and Svante Myrick (Ithaca, NY)

The City of Santa Fe Municipal Drug Strategy Task Force is pleased to present *The Santa Fe Plan: A Municipal Public Health and Safety Approach to Alcohol and Other Drugs.* This report grows out of a recognition that the City of Santa Fe, despite being a national leader in many ways, could do better in its response to alcohol and drug use. Communities of all sizes across the United States are staggering under the weight of half a century of failed federal, state and local alcohol and drug policies (Drug Policy Alliance, 2018).

Despite the decades-long drug war, overdose is now the leading killer of Americans under the age of fifty and rates of alcohol-related health problems and mortality have skyrocketed. However, people in local communities most impacted by problematic drug and alcohol use and deeply flawed public policies are stepping forward to make a difference. First pioneered as a public health measure in Europe in the 1980s and 90s, municipal drug strategies challenge local communities to work from a public health, racial justice and human rights framework instead of defining people who use drugs as criminals in need of coercion and punishment (Drug Policy Alliance, 2018).[1] Santa Fe can be a leader in supporting the health and wellness of its residents by taking action on locally based solutions and interventions in collaboration with its community partners and residents.

In 2017, the City of Santa Fe passed a Resolution (Resolution No. 2017-77) "to establish a Municipal Drug Strategy Task Force to develop approaches to problems related to both drug and alcohol addiction and policy responses to it by collaborating, studying, gathering input from the Santa Fe community and issue experts, and proposing recommendations for a coordinated drug strategy rooted in public health and safety."[2] The Municipal Drug Strategy Task Force (MDSTF) was officially launched in the summer of 2018 under the leadership of Mayor Webber and has been charged with recommending policies and practices as alternatives to incarceration. The MDSTF has collaborated across different areas of focus (prevention and education, treatment, harm reduction and public safety), in order to explore and recommend long-term solutions in a Community Strategic Plan for addressing the issues arising from persons who identify drug and alcohol use as problematic in their lives. This report highlights the findings and recommendations from the MDSTF's yearlong process of consultations with community members and stakeholders, policymakers, elected officials, experts, and service providers to inform Santa Fe's alcohol and drug policies.

"New Mexico has long had some of the highest rates of alcohol and drug abuse in the country, and the problem is getting worse. Since 2001, the combined rates of alcohol and drug related deaths in New Mexico rose by more than 60 percent. In 2018, 2,081 New Mexicans died due to alcohol or drug addiction, more than any previous year. Counting deaths is the standard way of estimating the scope of the problem, but we know many thousands more people, along with their children, families and communities, struggle with substance use on a daily basis. The problem is multi-generational and driven by complex underlying issues, such as poverty and trauma. In addition to the human toll, the social and economic costs rise every year: healthcare, domestic violence, child abuse, loss of productivity, incarceration and crime."

– NM Legislative Finance Committee, 2019

Overarching Goals for Santa Fe's Municipal Drug Strategy:

1. Reduce the prevalence of problematic substance use and their impact on individuals, families and communities.
2. Prevent alcohol- and drug-related injury and death.
3. Support our community with compassion and care for any individual who is seeking recovery or who desires to live a healthier life while using.
4. Increase access to health-based support in lieu of arrest and incarceration.

What is a Municipal Drug Strategy Model?

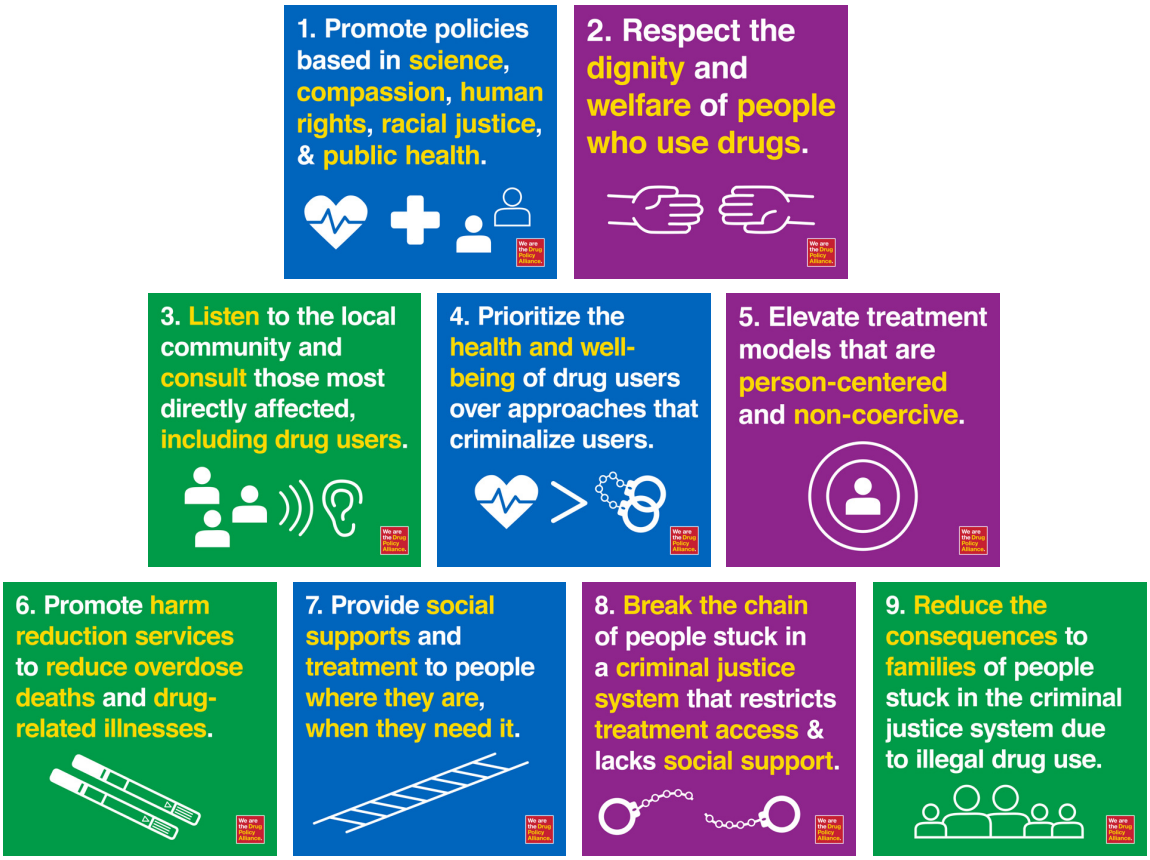
As outlined in the Drug Policy Alliance's white paper "Municipal Drug Strategy: Lessons in Taking Drug Policy Reform Local," the following are components of a municipal drug strategy model that are central to the Santa Fe Plan.

- Unlike "zero tolerance" and abstinence-based approaches, a Municipal Drug Strategy focuses on significantly reducing drug-related and enforcement related harms to individuals who use drugs and alcohol – whether they struggle with addiction or not – as well as to their families and communities as a whole.
- A shift in philosophy is at the core of a Municipal Drug Strategy. Governments at all levels have traditionally treated people who use drugs as criminals in need of punishment, which often leads to violations of their civil and human rights. A Municipal Drug Strategy challenges communities to focus, instead, on mitigating the harm to public health and safety caused by problematic drug use and address the root causes of problematic drug use.
- Solutions and interventions to pressing societal problems, when designed at the local level, reflect the unique character of a community and its people. When there is buy-in from the community, the impact of such interventions is more effective and felt more immediately.
- Proactive engagement of all stakeholders, especially those most impacted by drug and alcohol policies, ensures that the focus is on achieving the most positive outcomes for the greatest number of people in these communities.

MUNICIPAL DRUG STRATEGY GUIDING PRINCIPLES

The MDSTF employed the following principles and values during its work (Drug Policy Alliance, 2018)[3]:

- Promote policies based in science, compassion, human rights, racial justice and public health.
- Respect the dignity and welfare of people who use drugs and alcohol.
- Listen to the local community and consult those most directly affected, including drug and alcohol users.
- Prioritize the health and well-being of drug users over approaches that criminalize users.
- Elevate treatment models that are person-centered and non-coercive.
- Promote harm reduction services to reduce overdose deaths and drug-related illnesses.
- Provide social supports and treatment to people where they are, when they need it.
- Commit to understanding the social determinants of health in the community and generate policies aimed at positively influencing social and economic conditions.
- Break the chain of people stuck in a criminal justice system that restricts treatment access and lacks social support.
- Reduce the consequences to families of people stuck in the criminal justice system due to illegal drug use.



images depicting Municipal Drug Strategy Guiding Principles (courtesy Drug Policy Alliance)

Santa Fe Municipal Drug Strategy Task Force Process

In the summer of 2018, Mayor Webber convened a group of community experts and leaders, representing the various sectors involved with responding to drug and alcohol use. The MDSTF met monthly for over a year to conduct research and gather data, participate in learning session presentations by issue-experts and coordinate a community engagement process to learn about local challenges, resources and community assets and strengths. The MDSTF formed four working sub-committees to assess community input and propose recommendations to the larger task force membership: Prevention and Education, Harm Reduction, Treatment and Public Safety. Findings from community conversations, interviews and surveys are reported later in this paper, and have been instrumental to the development of the MDSTF recommendations.

The recommendations (starting on page 12) developed by the Municipal Drug Strategy Task Force reflect the hard work and efforts of a large number of persons involved in and familiar with the issues related to the use of alcohol and drugs. In the process of meeting, the Task Force members became acutely aware of the importance of the language employed in discussions that often resulted in the development of recommendations. Task force members recognized terminology was often pejorative, negative and counter-productive when addressing issues of addiction and treatment.

Additionally, references to treatment modalities were often imbued with outmoded and prejudicial terminology that was not reflective of progressive, state-of-the-art treatment strategies. The MDSTF recognized that the use of inappropriate terminology could prevent honest and constructive consideration of recommendations representing realistic and potentially effective strategies. Given this understanding, the task force has sought to introduce concepts that are truly reflective of community values and representative of the need for sensitive and empathetic approaches. We have purposefully sought to eliminate references to persons as “addicts,” “users,” “alcoholics” and terms regarding treatment approaches that contain negative connotations. We believe that this approach will enhance and improve public discussion in a productive and constructive manner.

The Santa Fe MDSTF also adopted the following guiding principles as a foundation for all recommendations:

- Rooted in harm reduction and encompass prevention, treatment/recovery, and emergency response/public safety.
- Prioritize human rights, public health and community well-being over costly approaches focused on criminalization.
- Avoid paternalistic decision-making but instead be developed by listening intentionally to the people of Santa Fe and in consultation with those who will be most directly affected by the proposed changes.
- Reduce the collateral consequences to and break the chain of individuals cycling in and out of the criminal justice system without treatment or the necessary social support to address drug & alcohol use.
- Based on the best available evidence about need and effectiveness.
- Rooted in realistic goals/plans where funding, community resources, deficits and feasibility is considered.
- Consider the extensive body of literature documenting the stigma associated with alcohol and other drug use. For people who use drugs, or are recovering from problematic drug use, stigma can be a barrier to a wide range of opportunities and rights.
- Consider critical intersectional identity (race, ethnicity, gender, sexual orientation, socio economic status, disability, marriage status, religion and all other privileged or oppressed factors of identity).
- Elevate social services that include harm reduction and treatment models that are person-centered, trauma informed and voluntary.
- Recognize that existing service systems often operate in silos, and strategies that work across and integrate these isolated entities are desperately needed

Summary of Findings

I. Drug and Alcohol Impact

Santa Fe faces complex challenges associated with problematic alcohol and drug use. According to the November 2019 New Mexico Legislative Committee Report, "Substance Use Disorder Treatment and Outcomes in New Mexico," critical gaps and impacts include the following:

- "Alcohol-related deaths outnumber drug-related deaths, but overdose deaths have increased at a faster rate in New Mexico. New Mexico has ranked in the top three states for alcohol-related deaths since 1981, and according to the Department of Health, has had the highest alcohol-related death rate of any state since 1997."
- "Treatment and funding for alcohol dependence, the deadliest Substance Abuse Disorder in New Mexico, does not meet the scale of the problem, and though effective medications exist for alcohol, as for opioids, they are chronically underutilized."
- "Evidence-based treatments are largely absent in New Mexico's jails despite high rates of substance abuse in the incarcerated population. Similarly, hospital emergency departments are a potentially key intervention point, but nearly half of hospitals in New Mexico do not even stock the drugs used for medication assisted treatment in their pharmacies, and the state has an overall shortage of providers who are able and willing to prescribe these drugs."

Alcohol and drug use significantly overlap with mental health issues, suicides, trauma, sexual assaults and domestic violence. While not included in the scope of this report, it is important to further explore data around the intersection between alcohol and drug use and these issues.

The charts below highlight the scope of the challenge in Santa Fe.

Estimate of People Living with a SUD in Santa Fe County by Substance, New Mexico, 2018

Total Substance Use Disorder	Opioid Use Disorder	Stimulant Use Disorder*	Alcohol Use Disorder	Benzodiazepine Use Disorder	Cannabis Use Disorder	Unspecified Use Disorder**
17,335 (11% of population)	4,561 (3% of population)	1,713 (1% of population)	7,491 (5% of population)	1,563 (1% of population)	1,349 (1% of population)	658 (<1% of population)

Source: New Mexico Substance Use Disorder Treatment Gap Analysis, NM Department of Health, January 2020

*Stimulant Use Disorder included only estimates of methamphetamine use disorder.

**Unspecified Use Disorder includes the estimate of incarcerated persons living with any SUD.

Estimate of the SUD Treatment Gap in Santa Fe County, New Mexico, 2018

People Living with SUD	People Who Received Treatment	People Needing Treatment	% of Persons with SUD Needing Treatment
17,335	8,920	8,415	49%

Source: New Mexico Substance Use Disorder Treatment Gap Analysis, NM Department of Health, January 2020

NM Substance Use Epidemiology Profile – January, 2020

	SF County Rate/100,000	NM Rate/100,000	US Rate/100,000
Alcohol-related Deaths	57.1	65.6	34.7
Alcohol-related Injury Death	27.7	30.9	20.2
Adult Binge Drinking	12.8	14.8	16.5
Youth Binge Drinking	11.5	10.9	13.5
Drug Overdose Death	31.4	25.5	21.7
	Santa Fe County (% using at least once in past 30 days)	**NM**	**US**
Youth Alcohol Use	28.4	26.2	29.8
Youth Current Heroin Use	3.3	2.8	---
Youth Marijuana Use	33.9	27.3	19.8
Youth Methamphetamine Use	3.3	3.2	---
Youth Inhalant Use	6.2	4.8	---
Youth E-Cigarette Use	31.8	24.7	13.2
	Santa Fe County	**NM**	**US**
Adult – Frequent Mental Distress (% reporting in last 30 days)	12.3	13.6	12.7
Youth – Feelings of Sadness or Hopelessness (% 9-12 graders reporting within the past 12 months)	39.8	35.8	31.5

II. Community Conversations

"At the state and federal level, problematic drug use often becomes a matter of statistics, trends, spreadsheets and inflammatory rhetoric. Communities, on the other hand, understand first-hand the drivers of problematic drug use and its impact on individuals, families, neighborhoods, first responders, health professionals and resources. The drive to identify and implement effective solutions springs from those who understand the challenges most intimately."

– Drug Policy Alliance, "Municipal Drug Strategy: Lessons in Taking Drug Policy Reform Local"

A primary guiding principle of the Municipal Drug Task Force was to listen intentionally to the people of Santa Fe and consult with those who will be most directly affected by the proposed changes. To achieve this principle the Task Force facilitated community conversations and conducted interviews in an effort to better understand the drivers of problematic drug use and its impacts on the Santa Fe community. Input was gathered from a diverse spectrum of the community so that policy recommendations better reflect the needs of all members of the community, especially those who are often not heard. The policy recommendations (page 12) were grounded in the feedback from these conversations.

Two hundred thirty-one community members participated in community conversations or interviews over the course of a four-month period from November 2018 through February 2019, including individuals directly impacted, those whose voices are often not heard (students, parents, individuals who are currently using drugs or alcohol or are in recovery, homeless individuals, women, immigrants and people of color), as well as community stakeholders (clinicians, nonprofit providers, hospital and Emergency Management Service staff, government and business leaders, and law enforcement). Thirteen community conversations were facilitated involving nearly 180 individuals, as well as a dozen one-on-one meetings and forty-two survey responses from law enforcement personnel.

Feedback from community conversations, surveys and individual interviews are captured in the Findings Report in Appendix B of this report. A high-level summary of findings is highlighted below.

Feedback from Individuals Impacted

Community Conversation – Sample of Findings
Perceived information gap in many communities, especially for youth and the Spanish-speaking immigrant and Native communities, **about the risks of problematic alcohol and drug use, prevention, treatment options, harm reduction and diversion programs.**
Lack of educational, extracurricular and recreational activities for children and youth.
Alcohol and drug education and counseling support for youth in schools could be improved.
Economic insecurity, racism and poor working and housing conditions.
Stigma around alcohol and drug use.
Trauma, PTSD and mental health issues including depression and anxiety are some of the underlying causes for alcohol and drug use.
Treatment is seen more broadly than inpatient treatment programs. Participants talked about the need for effective work programs, mentoring and job training, education, housing, childcare and an opportunity to participate in society in a positive way.
Medication Assisted Treatment (MAT) capacity needs to be expanded and promoted, and made more generally available in the community and in correctional settings.
There is a **lack of awareness of existing harm reduction practices in the community.**
There is a perception that incarceration worsens problematic drug use, as individuals do not have adequate opportunities for treatment, medication assisted treatment or mental health care while in jail.
There is a perception that the **Fire Department/Emergency Medical Services personnel are there to help everyone in the community and have been helpful to alcohol and drug users in crisis.**
Participants, especially individuals from the immigrant community, feel targeted, criminalized and over-policed because of their race, national origin, and economic status.

One overarching theme across all groups was that not all alcohol and drug use is problematic, however, the human toll of problematic alcohol and drug use on individuals and families is devastating. Participants shared stories of how widespread the problem is in communities across racial backgrounds and socio-economic status, and how it has resulted in trauma and chaos not only for individuals directly impacted but for their families. One participant shared: *"It is hard to go anywhere without alcohol being around. It was heavily used and abused even in my church communities. My family has suffered a lot of pain from alcohol abuse. It tore our family apart."*

Feedback from Stakeholders in the Community

Stakeholder Conversation – Sample of Findings
There is a widely held perception that **alcohol use is widespread due in part to its being more socially acceptable as a legal substance, yet is extremely harmful.** Prevention efforts must address alcohol use in addition to drug use through outreach and education of adults, families, youth and children.
Intergenerational substance use is a significant issue and there is a need to break the cycle of problematic family alcohol and drug use.
Problematic employee alcohol and drug use affects local business as employers report that hiring and retention can be problematic. Employers also believe **stigma is a barrier to seeking treatment.**
There is a **lack of adequate medical detox capacity** and options for those who detox in the hospital but then relapse after discharge due to **lack of follow-up treatment.**
Increased behavioral health services are needed, both mental health services (including early screening) and a range of treatment options for substance use.
Alternatives to keep people healthy and alive should be a priority. Ideas discussed included expanded naloxone distribution and education, overdose prevention sites, street outreach and education. Stakeholders also recommended **expanding the capacity for available needle exchange** programs.
Law enforcement personnel and other stakeholders are concerned about the enforcement capacity to address problematic alcohol and drug issues effectively as a result of **staffing shortages, turnover and the size and complexity of the challenges.**

Stakeholders agree that existing policies have been inadequate and to a degree unresponsive to the needs of the community. Stakeholders and community members offered suggestions focused on prevention, treatment, and harm reduction to treat drug and alcohol use as a public health issue that should be addressed together as a community. In order to move towards this vision, it is essential to address the stigma that exists around drug and alcohol use and to engage the broader community in conversations and solutions around local challenges.

One participant from the community conversations shared: *"I have a concern that even though alcoholism and addiction are diseases, community conversations are often shame-based. There is a need to model a different way of perceiving this issue and dealing with it as a community."*

III. What We Heard from the Santa Fe Community: Poll of Santa Fe City Registered Voters, 2018*

- Voters almost universally agree (90% agree, 81% strongly agree) that "current drug policies just don't work. We should shift resources from arrest and imprisonment of low-level drug users toward treatment and rehabilitation."
- Voters want the City to focus on public health and move the city into a different direction when it comes to drugs and drug use.
- A large majority would invest more in treatment/rehabilitation/behavioral health, improve education on drug issues, decriminalize/legalize marijuana or drugs in general, concentrate on heavy drug users, address poverty, bring people together to offer solutions, and create more programs for young people.

* Third Eye Strategies Poll, Spring 2018. 404 active registered voters in the city of Santa Fe, New Mexico. Drawn from a list of registered voters, interviews were conducted on the nights of May 22nd through 29th, 2018. The sample has a margin of error of ± 5.5 percent. Both cell phones and landline numbers were called. Each phone number had an equal chance of being called and random selection was made in households with multiple eligible voters.

Recommendations

I. Municipal Drug Strategy Framework

MDSTF recommendations are presented in six categories in the section below. Although these six areas are not mutually exclusive, they represent an attempt to organize and categorize policies and practices addressing various aspects of alcohol and drug use. Two of the categories, Prevention and Education as well as Economic Security and Community Development, focus on upstream measures that MDSTF members and focus group participants stated were essential to prevent or mitigate the effects of problematic substance use as early as possible. We heard from some of the MDSTF members that the Recovery-oriented Treatment and Harm Reduction pillars should be integrated into one pillar, since the aims of both are often quite similar, even as the methodologies may differ. We also heard from MDSTF members and focus group participants that Public Safety and Human and Civil Rights categories should be integrated into one pillar, to reflect the task force's aims to promote restorative drug and alcohol policies that protect human and civil rights.

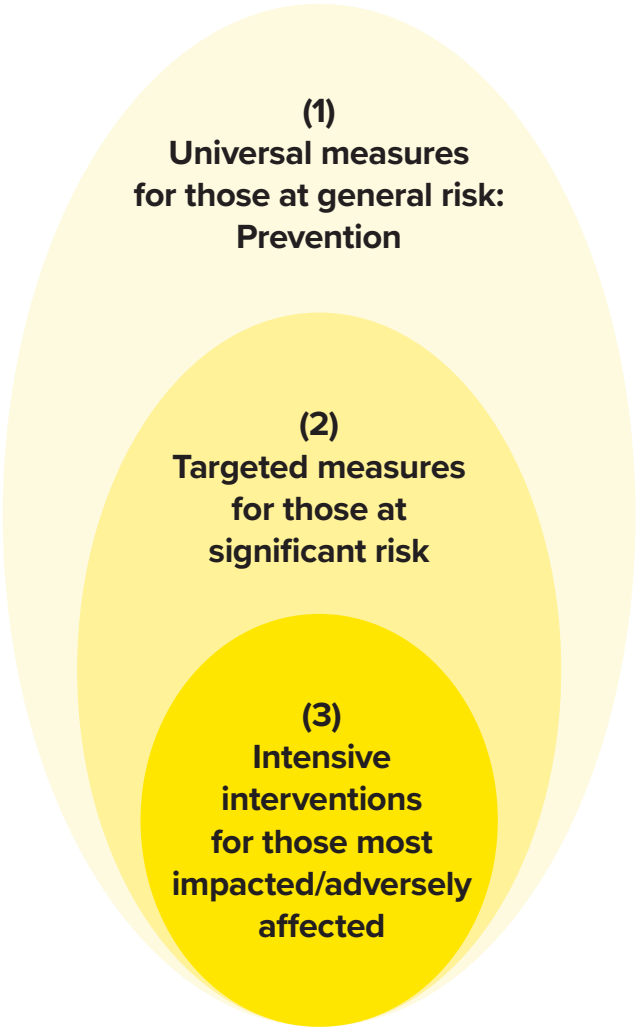
Recommendation Categories:

1. Leadership, Governance and Accountability
2. Economic Security and Community Development
3. Prevention and Education
4. Recovery-oriented Treatment and Harm Reduction
5. Public Safety and Human and Civil Rights
6. Advocacy

The MDSTF identified the following populations and a continuum of universal and targeted interventions in the recommendations outlined in this report.

Priority Populations:

1. Everyone in the general population.
2. Individuals at significant risk include: LGBTQAI, Low socio-economic status/low-wage workers, racial/ethnic minorities, immigrants, non-English speaking persons, individuals experiencing incarceration, foster care and court involved young people, individuals with behavioral health issue, who reside in economically disadvantaged neighborhoods or who experience social inequities and disparities in health.
3. Individuals who are already adversely affected include: high utilizers of emergency room (ER) and jail, law enforcement/EMS involved or pregnant women.



II. Task Force Recommendations

The recommendations presented in this report have been listed in the order of immediate, short-term and long-term. Recommendations labeled "immediate" are actions the task force suggests the City act on within the next few months to a year. Short-term recommendations are actions that should be prioritized over the next two years, and longer-term recommendations may take from one to three years to implement. It is important to recognize that the task force's goal is to develop a comprehensive plan to guide the City's approach to alcohol and drugs. Therefore, many of the recommendations build upon each other and each need to be considered together as part of a comprehensive approach. It is also important to recognize that long-term goals will not be accomplished unless the critical foundational recommendations (many labeled as immediate recommendations) are established over the next year. Recommendations are outlined in the charts with a rationale, city role and description of whether the recommendation is in process or a new initiative.

Color key: timing of implementation

Immediate, < 12 months	
Short-term, 12-24 mos.	
Long-term, 12-36 mos.	

"CITIES CAN PROVIDE SUPPORT FOR VULNERABLE POPULATIONS DIRECTLY, FACILITATE SERVICES FOR THOSE IN NEED, ENCOURAGE DIALOGUE AND COMMUNICATION, BUILD CAPACITY, ADVOCATE TO OTHER ORDERS OF GOVERNMENT, REGULATE ISSUES, AND ACT AS A ROLE MODEL."

– "LEARNING FROM ONTARIO'S MUNICIPAL DRUG STRATEGIES" JOURNAL OF COMMUNITY SAFETY & WELLBEING, 2017

A. Leadership, Governance and Accountability

Members of the MDSTF, many who represent fields across the existing local system of care, identified the limitations of current initiatives that structurally operate in silos. While there are many different organizations and agencies that are working to improve the lives of people in Santa Fe, they are often underfunded and not working in coordination with each other. MDSTF members propose that the City play a key role in working with community partners to align and integrate alcohol and drug policies and services to address critical gaps and better leverage resources in Santa Fe. MDSTF members recommend that the City take a leadership role in collaborating with community partners to coordinate effective strategies around prevention and education, community and economic development, recovery-oriented treatment and harm reduction, and public safety efforts.

Leadership, Governance and Accountability Recommendations	Rationale	City Role	In process or new?
A1) Create a position within city government with a specific focus on alcohol and drug policy, drug user health, treatment and social supports, and harm reduction.	The position would be responsible for conducting research and planning, coordinating across city departments and with department administrators, partnering with other levels of government and leading the implementation of the recommendations of the municipal drug strategy task force among other tasks. Other cities across the nation, including Denver, New York and Houston, have created key offices and positions responsible for implementing behavioral health recommendations from city task forces.	Funding; Leadership	New
A2) Fund community-based housing advocacy services to assist with passing policy addressing accessibility and protections from displacement.	Policies to include: ban the box in rental applications for convictions and medical cannabis patient status, for-cause eviction protections, stronger safety net services for rent-burdened Santa Feans, and increased funding for renters' rights programs and legal aid. A recent Santa Fe County Community Services Gap Analysis showed that a disproportionate amount of individuals and families who are Latino, Spanish speaking, and who live in high poverty areas are paying up to 50% of their income on rent or housing. High costs and other barriers to housing such as discriminatory rental practices (i.e. based on immigration status, LGBT status, national origin, race/ethnicity, disability, etc.), arbitrary evictions, criminal convictions, and poor credit history also lead to increased financial problems, unhealthy and unsafe living conditions, and homelessness.	Funding; Collaboration	New
A3) Create a new funding stream, coordinated with other local funders, dedicated solely to the provision of community-based behavioral health and harm reduction services.	Creation of funding could be through a local tax increase (i.e. tax on second homes), the local cannabis tax, and/or opioid pharma settlements. Although the County is the primary provider and funder of health services for city residents, the City is currently involved in program delivery by facilitating and funding programs and services on a regular basis. Given the need and demand for increased behavioral health services, the City's role should be expanded in collaboration with other local funders. The City has a key role to play in supporting vulnerable populations.	Funding; Collaboration	New
A4) Work with funders to standardize and streamline contractor requirements around employee training and quality standards of care.	Ensure the City of Santa Fe has the same contract requirements as other funders for continuing education for direct service employees. Performance standards and expectations can foster improvements in community health and safety.	Collaboration	New

B. Economic Security and Community Development

"The state's poor performance on most key social determinants of health contributes to the prevalence of substance use disorder and the gravity of its outcomes."

– New Mexico Legislative Finance Committee Report, 2019

Economic security and a healthy workforce are key factors in preventing problematic substance use. Participants in community conversations indicated that low and unstable wages, long working hours, unsafe working conditions, high housing costs, and lack of affordable health and childcare weaken family and community cohesiveness, often lead to risky behaviors, and prevent access to needed services including substance use disorder treatment. Numerous individuals impacted by problematic substance use shared stories during MDSTF interviews about the impact poverty and lack of housing, food, transportation, access to health or behavioral health services or other basic needs has affected their recovery. One participant shared, "having my basic needs met has helped me in my recovery. If you don't have this, how can you advance in life?" Communities affected by high rates of drug and alcohol use need equal access to community and economic development opportunities and services.

A growing body of evidence suggests that communities in economic distress register higher incidences of drug overdose deaths than those that have more economic opportunities. A 2017 Brookings report highlighted that "among high-poverty counties [in the U.S.] – those with poverty rates of 20 percent or higher - Forty-one percent (342 of 829) reported above-average death rates due to drug poisoning in 2015. In contrast, only 13 percent of counties with poverty rates below 10 percent had above average death rates (56 of 438)."

The MDSTF is recommending a holistic approach to support and expand existing efforts and new initiatives to improve youth and family development, economic security, and the public health of communities, especially for those communities that have been historically underserved or where there are health disparities. The MDSTF proposes that investments in economic and community development will positively impact the social determinants of health and health disparities, and lead to lower rates of problematic alcohol and drug use. Investing in under-resourced communities can reduce drug use while addressing a host of other public health problems that are also related to poverty.

"IT'S HARD TO GET HEALTHY WHEN YOU DON'T HAVE ENOUGH FOOD TO EAT."

– SANTA FE FOCUS GROUP PARTICIPANT

Economic Security and Community Development Recommendations	Rationale	City Role	In process or new?
B1) Research and reduce barriers to harm reduction housing by working with community providers to implement housing that provides a safe place for individuals to use substances including alcohol.	Harm reduction housing is an approach that focuses on finding and sustaining housing for people who are experiencing homelessness and are actively using drugs and alcohol. Services offered in a Harm Reduction Housing model are included for many challenges associated with homelessness and drug and alcohol use, such as counseling, financial skills training and treatment. Research of harm reduction based housing projects in Canada, the U.S., and the U.K. found this approach is an effective way to address the needs of homeless individuals who use substances, including alcohol.	Research & Planning; Collaboration; Leadership; Funding; Advocacy	New
B2) Seek funding to expand the Better Way project to specifically work with individuals in early recovery.	The Better Way project is a city subsidized program where a van picks up workers to do work on city owned properties for the day and pays them. Employment is a protective factor that mitigates the risks for problematic substance use.	Funding	In Process
B3) Strengthen the economic security of low-income families in Santa Fe by improving wages and working conditions.	Specifically we recommend: raising minimum wage for workers, including tipped workers; mandating guaranteed sick leave, family paid leave, and fair scheduling in hospitality, retail, restaurant, and other low-wage industries; strengthening local enforcement programs of City employment laws (i.e. minimum wage and discrimination protections) & collaborating with other government agencies to improve enforcement of state/federal employment laws (i.e. wage & hours, overtime, health and safety, and anti-discrimination protections); and, supporting job readiness and workforce development programs for adult workers and youth. Economic security and a healthy workforce are key factors in preventing substance use. Unchecked employment violations often lead to problems with economic and health wellbeing.	Legislation; Advocacy; Collaboration	New
B4) Ensure adequate funding and financing to support short and long-term affordable and subsidized housing programs and support services that prioritize low-income Santa Feans, people experiencing homelessness or who are precariously housed and who are in danger of being homeless, individuals in recovery, treatment and who are currently using, as well as their families.	Specifically, we recommend that the city leverage advocacy efforts and all housing resources including HUD funding, public housing options etc. to promote an increase in capacity for housing opportunities such as: Emergency shelter; affordable and subsidized housing (both rental and first time home-buying); senior housing; permanent supportive housing; sober living/recovery housing; transitional living; and, extended residential treatment. Housing insecurity poses a dire threat to family stability and emotional wellbeing and can lead to problematic substance use among workers, youth, and people experiencing homelessness.	Funding	In Process
B5) Collaborate with community partners to create and fund a community mentorship, job training & employment project with local business owners to employ treatment graduates and THRIVE participants.	Employment is a protective factor that mitigates the risks for problematic substance use. MDSTF recommends looking into opportunities for the City to provide tax cuts or other incentives to business owners for this initiative.	Collaboration; Direct Service; Funding	New

C. Prevention and Education

"Our kids are hurting. They are severely depressed at 11 and 12 years of age. They listen to dark lyrics. They are taking any drug they can find – Advil, Nyquil, prescription drugs, marijuana. They take drugs because they don't want to be awake."

– Santa Fe Community in Schools staff

The MDSTF repeatedly heard from community members, law enforcement and stakeholders that it is essential to support young families, children and youth as early as possible to address the root contributing factors of problematic substance use. In addition to addressing the social determinants of health through community and economic development, effective drug prevention programming should be supported and expanded. Both young people and the adults in their lives need more effective drug education, skills building and prevention programming that facilitate positive youth development. The MDSTF proposes that the City continue to collaborate with the Santa Fe Public School District and community partners to support coordinated and geographically targeted programming for youth that address root contributing factors of drug use such as trauma experienced by youth and their families. It is also essential to support education for families, City staff and stakeholders around culturally and linguistically-appropriate care, as well as trauma-informed and restorative justice practices.

"I HAVE A CONCERN THAT EVEN THOUGH ALCOHOLISM AND ADDICTION ARE DISEASES, COMMUNITY CONVERSATIONS ARE OFTEN SHAME-BASED."

– SANTA FE FOCUS GROUP PARTICIPANT

Prevention and Education Recommendations	Rationale	City Role	In process or new?
C1) Assist in funding the evaluation for the SFPS District's implementation of Safety First, a science-based and compassionate drug education curriculum, for 9th and 10th graders.	In response to a lack of accurate, science-based and compassionate drug education resources, a new set of materials called Safety First have been developed by the Drug Policy Alliance. The Safety First program is designed to foster open and honest conversation among teenagers, educators and parents.[4] Unlike D.A.R.E. and other abstinence-only programs, Safety First is based in the philosophy of harm reduction. When it comes to drug education, a harm reduction approach discourages young people from using alcohol and other drugs. The Santa Fe School District will be piloting the Safety First curriculum in one local high school this coming year.	Funding	In Process
C2) Fund and support research-driven, culturally, linguistically, and age-appropriate community education.	Education should focus on factors leading to problematic substance use; drug identification; risks of drug use, harm reduction; and treatment options for youth, parents, families, medical providers, law enforcement, and the community at large, with a core objective of eliminating stigma against those who use substances problematically.	Funding; Collaboration	New
C3) Partner with stakeholders to identify curriculum/community-based education for parents, families, and the community at large that eliminates substance use stigma and provides up to date information on harm reduction, including education on alcohol.	The detrimental effects of stigma on people with substance use disorders are acute and far-reaching. Stigma exacerbates social alienation and has the potential to impact adversely all domains of life, such as employment, housing, social relationships, mental and physical health, access to treatment and harm reduction services. "Community-based education programs that are aimed at eliminating stigma is attributed to significantly reduced stigmatized attitudes[5].	Collaboration	New
C4) Require all city workers including fire and police employees to engage in continuing education to better understand behavioral health issues.	Behavioral health makes up a large percentage of fire and police calls for service. It also manifests in many interactions City employees have with the public. Trainings such as crisis intervention, trauma-informed care and others covering issues of mental health, substance use, adverse childhood experiences and social determinants of health can better prepare City staff to interact in a positive and productive manner with individuals experiencing behavioral health issues.	Education	New
C5) Fund coordinated and geographically targeted youth engagement and programming with local stakeholders such as school, community organizations, recreational programs, business associations, etc.	Programs should include, but are not limited to: youth mentorship; safe recreational spaces with access to physical and nontraditional educational opportunities; and, economic support for disadvantaged/high risk families for engagement in available services. The engagement of youth in a variety of programming from mentoring to recreational activities is a strategy for preventing harm from substance use. Research shows that such programs can contribute: to reducing crimes committed by minors; increasing positive and reducing negative behaviors; exposing youth to less violence; improving performance; decreasing health care costs; increasing economic contributions of young people when they reach adulthood; and, increasing self-confidence, optimism, and initiative. [6]	Funding; Collaboration	In Process

D. Recovery-oriented Treatment and Harm Reduction

"Reducing stigma would help people stay alive. My pride hindered my own ability to get support. It took me awhile to participate in the safe needle exchange after witnessing people use dirty needles repeatedly. Continue the distribution of Narcan to prevent overdoses. Again, de-stigmatizing drug use is key to keeping people alive."

– Santa Fe Focus Group Participant

Providers and community members want a treatment system that is client centered and recovery oriented. We heard repeatedly from individuals who use alcohol or drugs problematically that there are gaps in the service system and access to treatment is often limited due in part to the lack of affordable treatment options available to individuals at the time they are ready for treatment. Individuals in recovery programs shared stories of long waits and other barriers that prevented them from accessing treatment earlier. People who use alcohol and drugs noted that the services they need are not always the services that they are offered. People in treatment and/or currently using drugs require better service integration and ancillary services to help address basic needs. Some people who use alcohol or drugs may not need or benefit from treatment and instead would benefit from harm reduction services or other supportive services. "Harm reduction is a set of practical strategies and ideas aimed at reducing negative consequences associated with drug use. Harm reduction incorporates a spectrum of strategies from safer use, to managed use to abstinence to meet drug users "where they're at," addressing conditions of use along with the use itself."[7]

There is also concern that the community lacks transitional living and integrative services and programs to support long-term sobriety once the individual has completed a treatment program. Additionally, women in recovery shared that there are limited treatment options for women with young children while the need far exceeds community capacity. Keeping families together can prevent further generational trauma. There is also a perception that there are insufficient drug treatment and ancillary programs available to Spanish speakers and to the immigrant community at large. Additionally, we heard from people who use drugs and alcohol that there are insufficient mental health services to help people get appropriate care and support to deal with trauma and PTSD instead of using alcohol and drugs to cope.

A theme from community consultation findings was that there is a need for various points of access to services, which are responsive to the windows of opportunity where individuals are ready to engage, and especially during times of transition (e.g., transitioning from jail to the community or from shelter or temporary housing). Participants talked about the need for effective work programs, mentoring and job training, education, housing, childcare and an opportunity to participate in society in a positive way. Participants discussed the importance of providing support with employment, education, housing and childcare to provide stability and safety as a core function of treatment. Other recommendations included: opioid agonist therapy (OAT) capacity needs to be expanded and promoted, and made more generally available in the community and in correctional settings; numerous individuals reported successful treatment with buprenorphine programs and recommended that these programs be expanded; Individuals impacted and community stakeholders also stressed the need to increase awareness of existing harm reduction practices in the community and to expand harm reduction outreach and education to users, families and the community at large.

Recovery-oriented Treatment and Harm Reduction Recommendations	Rationale	City Role	In process or new?
D1) Collaborate with the County, local hospitals, and other stakeholders, to plan and host interagency interdisciplinary peer-informed collaborative case staffing meetings as a model of prevention and treatment service delivery.	There are many Santa Fe residents who have frequent hospital visits and complex medical and social needs that require navigation of a complicated healthcare and social service landscape with providers that do not always effectively communicate with one another. Integrated peer-informed collaborative case staffing models or interpersonal care coordination teams are one way to address disease management and provider communication. [8]	Collaboration	In Process
D2) Ensure city bus routes go to treatment, harm reduction and prevention services and offer bus passes to individuals engaged in treatment to help facilitate access to care.	Transportation is a significant barrier to accessing treatment services in our community. Lack of transportation and the resources to utilize public transportation can lead to rescheduled or missed appointments, delayed care, and delayed or missed medication use. These consequences may lead to poorer health outcomes.[9]	Direct Service; Education	New
D3) Create a Safe Needle Disposal public education campaign that may include printed materials, PSA's and a page on the City's website on what to do with found needles, locations of disposal sites, referrals to syringe service programs, and other resources.	Continue to support the implementation of a public sharps container program in places like parks, local businesses, motels, etc. NM's Southwest CARE Center reports collecting an average of 800 used syringes/needles per month within city limits. Public discarding of used injection equipment poses significant health risks to the community. Risks include, but are not limited to, hepatitis C and other blood borne pathogens found in used needles and syringes. Installation of public sharps disposal boxes is a cost-effective way to prevent infectious diseases and can encourage increased safe disposal for individuals who don't have immediate access to biohazard containers. It is also a good way to address the public's fear to congregate in public areas with an increase in littered sharps.	Education; Funding	New
D4) Fund community-based organization (s) to distribute naloxone in non-traditional settings such as grocery stores, and other highly visible public places.	This should also include overdose response boxes (naloxone and face shields) in parks, city buildings, local businesses, motels, libraries, etc. Last year, there were more than 35,000 two-dose Narcan Nasal Spray (NNS) kits distributed statewide. This resulted in 2,139 reported opioid overdose reversals by laypeople. However, there are still public venues where NNS could be distributed to community members not reached by current statewide efforts. Information from the Centers for Disease Control and Prevention and other academic institutions nationally show that laypeople reverse more opioid overdoses using naloxone than paramedics and law enforcement combined. The City should not rely on state and county funded naloxone distribution programs and begin creatively engaging the public with overdose recognition and response trainings, and corresponding NNS distribution.	Funding	New
D5) Provide funding for jail community re-entry programs and services (an example could be to help fund a city/county re-integration center) specifically designed for formerly incarcerated individuals and their families.	Research suggests that people leaving jail are often not prepared for release and, when released, encounter challenges in accessing the programs and services that help them become healthy, productive members of their communities. The needs most frequently self-identified by program participants prior to their return into the community included transportation, clothing, food, housing, and employment or vocational training.[10]	Funding; Collaboration	New

Recovery-oriented Treatment and Harm Reduction Recommendations	Rationale	City Role	In process or new?
D6) Research Injectable Opioid Treatment and assess the potential as a viable intervention in Santa Fe. If appropriate, implement a supervised injectable opioid treatment pilot project using prescription hydromorphone or diacetylmorphine.	For people who use drugs who have not found success with methadone or buprenorphine, the most dramatic developments in drug substitution therapies have been in the field of Injectable Opioid Treatment. These services, as part of comprehensive treatment strategies, provide substantial benefits to long-term heroin users who have not been responsive to other treatment. Studies have shown that those enrolled in injectable opioid treatment demonstrate a reduction in drug use and an improvement in overall physical and mental health. Additionally, several studies have found that individuals who participated in these programs significantly reduced their involvement in criminal activities, generating large enforcement cost savings.[11]	Research & planning	New
D7) Community Services Department to encourage grantees to use a peer recovery model and integrate peer support, family support and navigators in the role of reducing barriers and increasing access to care and supporting individuals in early recovery.	The range of benefits for those receiving peer support services include: increased self-esteem and confidence; improved problem solving skills; increased sense of empowerment; improved access to work and education; more friends, better relationships, more confidence in social settings; greater feelings of being accepted and understood (and liked); reduced self-stigmatization; greater hopefulness about their own potential; more positive feelings about the future; and, increased access to treatment and social supports. Benefits of utilizing a peer recovery model also extends to the peer worker and the organization.[12]	Collaboration	In process
D8) Help fund medical detoxification services located within the City and ensure that it is recognized as part of the continuum of care.	"Withdrawal systems vary from substance and while some may be only mildly uncomfortable, some can be life-threatening. Medical detox provides patients with medication and medical treatment in order to prevent and address complications."[13] Detoxification alone is not treatment, but some individuals may need or want to medically detox to move on to other treatment options and services. Medical detoxification services should be an integral part of a continuum of care model.	Funding; Collaboration	New
D9) Ensure and promote that city funding is allocated for highest risk groups such as people who use drugs problematically, HIV/ AIDS patients, pregnant women and immigrants whose immigration status bars them from accessing subsidized health care, i.e. advocate for the New Mexico based legislative campaign to provide state subsidized insurance coverage for immigrant families not covered by the Affordable Care Act.	For those at significant risk of problematic substance use, protective factors include, individual and cultural resilience; community cohesion; and access to healthcare, education, and other resources. To be best practice, services and resources should be research driven, trauma informed, and culturally and linguistically relevant and responsive.	Funding	New

Recovery-oriented Treatment and Harm Reduction Recommendations	Rationale	City Role	In process or new?
D10) Collaborate with local partners to ensure a full treatment continuum exists in Santa Fe for substance use disorder treatment to include detoxification, short and long term residential treatment, crisis response, regular and intensive outpatient treatment, psychiatry, and adequate access to care for all substance use disorders and ensure that nobody is turned away for having a particular substance in their system.	There should exist a no wrong door model that ensures individuals receive the comprehensive care they need regardless of where they enter the system. Also consider incorporating the one-door model, the integration of primary care, detox, mental and substance use disorder treatment, etc. "Continuum of care refers to a treatment system in which clients receive treatment at a level appropriate to their needs and then step up to more intense treatment as needed.[14]" An effective continuum of care relies on an integrated, person-centered network of community-based services. The longer a person/ family is engaged in this type of system of care the better the recovery outcomes will be.	Collaboration	In Process
D11) Collaborate and fund community partners in creating low threshold, harm reduction focused, drug and alcohol treatment on demand, including mobile treatment.	This includes supporting: increased availability of buprenorphine by building on the Santa Fe SAMSHA grant for buprenorphine inductions in the home or on the street; efforts to increase capacity of medication assisted treatment prescribers and PCPs in community who are comfortable assessing and treating SUD, and ER-based medication assisted treatment programs. Today in the U.S., people who want and are ready to access treatment are faced with serious barriers, including long waiting lists, high treatment costs, funding cuts, and lack of appropriate treatment services in their community. There is a need for treatment-on-demand policies at a local level that create immediate access to drug treatment for anyone who needs it, without emphasizing punishment. Findings from San Francisco, CA's initiative, "suggest that access to treatment improved with implementation of a treatment-on-demand policy."[15]	Funding; Collaboration	In process

E. Public Safety and Human and Civil Rights

"There is a better approach: help rather than punishment."

– Santa Fe Community Focus Group Participant

The MDSTF heard from community members and stakeholders that there is a desire to change current law enforcement approaches given the growing attention to the human and economic costs of incarceration and racial disparities in arrests and convictions at national and local levels. Our community conversations also revealed that there is an impression that the Fire Department/Emergency Medical Services personnel are there to help everyone in the community and have been helpful to alcohol and drug users in crisis.

Community members expressed interest in approaches to public safety that focus on community development and capacity building, innovative policing and EMS practices, and community engagement and collaboration and move away from incarceration. Community members consulted agreed that alcohol and drug use is a health problem and criminal intervention does little to deter the usage of drugs. Furthermore, research shows that the harms associated with criminalization can outweigh the harms associated with drug use. Encounters focused on criminalization of drug use deepen mistrust between police and community members, and do nothing to break the cycle of repeated incarcerations and the effects this approach has on individuals, their children and families. In particular, immigrants are particularly vulnerable under drug laws since they can face deportation for even minor drug-related violations. Members of the immigrant community in Santa Fe reported that they feel targeted and over-policed because of their race, national origin, language and economic status.

The MDSTF recommends that the City of Santa Fe redirect law enforcement and community resources from criminalization to increasing access to services such as LEAD and other services and develop policies and practices that promote restorative approaches to drug and alcohol use. The MDSTF also recommends that the local Emergency Medical Service (EMS) system (which is administered by the Santa Fe Fire Department) should be positioned to be a key element in a municipal drug strategy. Not only are Santa Fe's EMTs on the front lines of caring for those using drugs but, the Fire Department is the City's only provider of direct healthcare services.

"CURRENT DRUG-RELATED POLICING PRACTICES AND INCARCERATION ARE COSTLY, CREATE ANTAGONISM BETWEEN POLICE AND COMMUNITY MEMBERS, AND MAY BE MAKING SOME COMMUNITIES LESS SAFE."

– BLUEPRINT FOR A PUBLIC HEALTH AND SAFETY APPROACH TO DRUG POLICY, 2013

Public Safety and Human and Civil Rights Recommendations	Rationale	City Role	In process or new?
E1) Develop public safety strategic plans (SFFD and SFPD) that align with the City's commitment to a health-based approach to public safety encounters involving behavioral health, alcohol and drugs rather than a criminalized approach. Revise the SFFD and SFPD efforts to recruit new employees to align with the City's strategic vision for a public health-based approach to public safety.	The MDS Task Force recommends and realizes that to be effective we need to move away from a siloed approach to services provision and that all city agencies must share the same core values in responding to the global problem of problematic drug and alcohol use. In order to ensure success, the department must take the lead in not only training current employees but also recruiting new employees who can embrace these values. Too often, changes in administration can radically affect programs. Many of the needed changes are multi-year projects that require a strategic approach and a long attention span. A strategic plan can provide a roadmap as well as benchmarking to understand progress made over a multi-year period.	Research & Planning; Leadership	New
E2) Coordinate with the THRIVE/ LEAD Policy Coordinating Committee to expand the program to include additional substances and other behavioral health issues beyond opioids.	Currently, the Santa Fe THRIVE/LEAD program serves only individuals with problematic opioid use. THRIVE stakeholders, including law enforcement and clinical staff have advocated that individuals using other drugs and/or who have serious mental health issues could also benefit from the program.	Collaboration; Funding; Direct Service	In process
E3) Communicate "A New Face of Public Safety: Incorporating Public Health as part of Public Safety" by moving away from SFPD and SFFD public images of high-tech equipment and high-intensity approaches (e.g., SWAT vehicles and ladder trucks); instead place more emphasis on images that reflect the reality of the majority of service calls -and the Departments' strategic visions and commitment to harm reduction and community health.	The community's understanding of the police and fire departments are largely a product of those department's branding campaigns which focus on very low frequency events and don't accurately reflect the day-to-day operations of these departments. This leads to a misunderstanding of community risk, recruitment of individuals who may not be interested in the majority of the work performed by those departments and, to a large degree, perpetuate a brand that is incongruent with reality.	Education; Leadership	New
E4) Introduce a resolution supporting the reduction of penalties, at a state level, for possessing drugs for personal use from a felony to a misdemeanor.	In New Mexico, the simple possession of any amount of drugs other than marijuana, including residue found on drug paraphernalia such as a pipe or a spoon, is a fourth degree felony that can land one in state prison. Twenty states (20) have either never made possession a felony or have reformed their state laws making possession a misdemeanor. In the past five years, states like Oklahoma, Utah, Connecticut, Alaska, Oregon, Colorado and California have all reclassified drug possession to a misdemeanor. [16]	Legislation; Advocacy	New

Public Safety and Human and Civil Rights Recommendations	Rationale	City Role	In process or new?
E5) Seek funding for the recruitment and hiring of additional public safety behavioral health staff workers within the Fire Department, and encourage the formalized use of these staff by police officers responding to service calls.	The City of Santa Fe is already part of a growing movement by emergency response agencies to adopt a mobile integrated health care (MIH)/community paramedic model that provides services in the home and nonclinical environments for those who access the 911 system. This model is in the best interest of both patients and community health to prevent illnesses and hospitalizations.[17]	Funding; Direct Service	In Process
E6) Partner with SFPS, private and charter schools, County Teen Court Program, CYFD/Juvenile Probation and Parole, District Attorney, and others to create and implement a city juvenile arrest diversion program for substance use related issues.	Being arrested as an adolescent can impact a person's health and life trajectory profoundly. Once arrested, a juvenile is more likely to be arrested again and less likely to graduate high school. Youthful misbehavior can be a signal of unmet needs or trauma. Diversion is a promising practice to reduce youth involvement with the justice system while offering restorative and rehabilitative opportunities for the adolescent and their family.	Collaboration	New
E7) Incentivize (financially and through public recognition) the proposal of, adoption by, and interest in innovative approaches to emergency response by SFPD and SFFD staff. Showcase the SFPD's and SFFD's innovative and trauma-informed response models.	Line officers have a wealth of experience to help develop innovative and trauma-informed responses.	Leadership; Funding	New
E8) Compile research about effective restorative justice programs and best practices in other cities, evaluation strategies, training opportunities for stakeholders and law enforcement, and potential funding for pilot projects in Santa Fe; develop a report with recommendations for restorative justice pilot projects that would involve local law enforcement, local courts, the schools, and other stakeholders.	Research shows that restorative justice (RJ) programs reduce recidivism and crime, decrease incarceration of young people, lower costs in the criminal justice system (which can be used for a range of prevention and treatment programs) and have high participant satisfaction rates among victims, offenders, community members and public safety officials, leading to greater trust and family and community cohesiveness. RJ capitalizes on second chances, restores community bonds, and promotes peer and community connectedness.	Research and Planning; Education; Leadership	New
E9) Compile new and emerging research on public safety/emergency and innovative public safety/ emergency responses implemented in other jurisdictions and provide information gathered to city leadership.	Other communities and municipalities have already begun to implement and research new approaches to meet current challenges to emergency response and the public safety response system, specifically as they relate to the unique behavioral health needs of people dealing with alcohol and substance use issues[18], e.g., Albuquerque, NM[19], Memphis, TN[20], Seattle, WA[21], and Colorado Springs, CO[22]. Rather than reinventing the wheel, we recommend that the City consider whether these approaches might be appropriate for our community.	Research & Planning	New

Public Safety and Human and Civil Rights Recommendations	Rationale	City Role	In process or new?
E10) In coordination with the County's Crisis Center and Mobile Crisis Response team, expand multidisciplinary crisis response services including the development of a 1-year pilot program for a three-person "co-response team" (SFPD employee, SFFD employee, "public safety behavioral health staff worker") for dispatch to all service calls with a behavioral health component.	Law enforcement agencies and EMS systems across the country are integrating crisis response models in to their agencies. This model of collaboration is shown to improve how police, fire/EMS, mental health services, and communities respond to mental health and substance use crises. Research also suggests that such models increase safety in encounters, increase diversions from the criminal justice system, reduce arrests, increase mental health service utilization, and decrease use of high-intensity police units and use of force.[23] This model will also reduce unnecessary fire suppression apparatus use and transports to emergency rooms.	Collaboration; Funding; Direct Service	In Process
E11) Collaborate with the County to ensure City residents' access to best practices/standard of care treatment for opioid dependency (induction and maintenance to include opioid agonist therapy (OAT) including buprenorphine and methadone) at the Santa Fe County Adult Detention Center.	Individuals recently released from correctional settings are up to 130 times more likely to die of an overdose than the general population, particularly in the immediate two weeks after release. Given that approximately one quarter of people incarcerated in local jails and prisons are opioid-dependent, initiating OAT behind bars should be a widespread, standard practice as a part of a comprehensive plan to reduce risk of opioid fatality. In light of the opioid crisis, it is imperative to ensure that evidence-based, effective drug treatment and harm reduction resources are available to all.[24]	Collaboration; Advocacy; Leadership	New

F. Advocacy

"...Lively, diverse, intense cities contain the seeds of their own regeneration, with energy enough to carry over for problems and needs outside themselves."

– Jane Jacobs, *The Death and Life of Great American Cities*

The MDSTF recommends the City of Santa Fe increase efforts to advocate for policies and practices at a state and local level across the areas of prevention, community and economic development, treatment and harm reduction, and public safety as identified by sub-committees. While the recommendations in this report highlight ways a local municipality can impact problematic alcohol and drug use through direct services, collaborations, funding and internal policy change, it is important to understand that the City will have only a limited impact if it does not work in coordination with community stakeholders and other local and state jurisdictions. The recommendations below highlight the role the City can take to advocate for restorative policies with partners including the Santa Fe Public School District, County of Santa Fe, state agencies and state government.

Advocacy Recommendations	Rationale	In process or new?
F1) Advocate at a state level for cannabis legalization as a way to increase the local tax base and direct funds to treatment, harm reduction, prevention and education.	Local excise taxes on adult use cannabis should be used for local social services and support. Although the legalization bill proposed during the 2020 New Mexico legislative session was not passed, there will likely be future similar efforts in future legislative sessions. Such legislative efforts should include provisions which would create a municipal excise tax of up to 4% for cannabis products sold in the jurisdiction. It is estimated that the city of Santa Fe could receive an upwards of $1,000,000 in the first year of enactment of such an act alone.	In Process
F2) Advocate to local and state agencies, including law enforcement, corrections institutions and officers, not to inquire about immigration status or communicate national origin or legal status to federal immigration authorities.	Promoting connected and resilient communities where everyone feels respected, safe, and belongs is key to preventing problematic substance use. Collaboration between local governments, law enforcement, jails and ICE for the express purpose of detecting, apprehending, detaining, and deporting undocumented immigrants prevents people from seeking public safety services, accessing harm reduction and treatment programs, and experiencing a general sense of trust, permanence, and community belonging. While the City and the County have strong non-inquiry and non-cooperation policies relating to federal immigration authorities, CYFD, the State Police, Probation, and Parole do not.	In Process
F3) Advocate at a state level for increase in alcohol excise tax and for greater access to allocation of funding from alcohol tax.	Increased alcohol taxation represents a powerful yet simple, cost-effective, evidence-based policy initiative to save lives, improve health, and reduce crimes such as domestic violence and sexual assault resulting from alcohol misuse. The total cost of excessive alcohol use in New Mexico in 2010 was $2.23 billion.[25] While federal, state, and local excise taxes on alcohol have existed for years, these taxes have not been adjusted for inflation, resulting in alcohol that is the most affordable it has ever been in more than 60 years.[26] Doubling the alcohol tax could mean raising the price of a drink by as little as ten cents per drink, but could reduce alcohol-related mortality by an average of 35%, traffic crash deaths 11%, sexually-transmitted infections 6%, violence 2%, and crime 1.4%.[27]	New

Advocacy Recommendations	Rationale	In process or new?
F4) Advocate to the County to provide 24/7 public transportation to people being released from the Santa Fe County Adult Detention Facility and ensure all those incarcerated are aware of the service.	Alan Cruthirds, incarcerated for two days after being cited for drinking alcohol in public, a misdemeanor, had been released from the Santa Fe County jail just hours before he died. He was struck by multiple cars while crossing the highway at about 7 p.m.....Although jail officials say they offer transportation to those who have been released, former inmates and advocates contend the options to return to Santa Fe are limited – if they know about them at all. But because many inmates are released later in the evening or in the early morning, they often walk.[28]"The distance between the Santa Fe County Adult Correctional Facility and the Interfaith Community Shelter at Pete's Place is 8.5 miles; 3 hours by foot.	New
F5) Advocate at a state level for an appropriation for a hydromorphone pilot at the University of New Mexico	For drug users who have not found success with methadone or buprenorphine, the most dramatic developments in drug substitution therapies have been in the field of Injectable Opioid Treatment. These services, as part of comprehensive treatment strategies, provide substantial benefits to long-term heroin users who have not been responsive to other treatment. Studies have shown that those enrolled in injectable opioid treatment demonstrate a reduction in drug use and an improvement in overall physical and mental health. Additionally, several studies have found that individuals who participated in these programs significantly reduced their involvement in criminal activities, generating large law enforcement cost savings.[29]	In Process
F6) Advocate at a state level to ensure drug-checking kits are no longer considered drug paraphernalia in the state's controlled substance act.	Recently, in Santa Fe, harm reduction providers have noted that there have been increased cases of fentanyl in the drug supply unbeknownst to users. Technology exists to test drugs for dangerous adulterants, but it has so far been mostly unavailable at a public level in the U.S. Making drug checking services available in the context of a community outreach service would save lives and reduce hospitalizations and also allow for real-time tracking of local drug trends. The service can also help to connect people with local treatment and harm reduction services. Drug checking kits are currently illegal under NM state law.	New
F7) Advocate to Santa Fe Public Schools for district policies to limit school suspensions, expulsions, arrests, and all exclusionary school discipline practices. Instead, employ restorative justice practices.	Restorative justice is a community centered approach to crime that protects, restores, and improves public safety; recognizes and supports victims; allows offenders to be accountable and make amends; repairs and builds community relationships and trust; and promotes the reintegration of offenders into society. Research shows that restorative justice (RJ) programs reduce recidivism and crime, decrease incarceration of young people, lower costs in the criminal justice system (which can be used for a range of prevention and treatment programs) and have high participant satisfaction rates among victims, offenders, community members and public safety officials, leading to greater trust and family and community cohesiveness. RJ capitalizes on second chances, restores community bonds, and promotes peer and community connectedness.	New
F8) Advocate to the SFPS District that staff engage in continuing education in the following areas: cultural humility; culturally and linguistically appropriate care; trauma informed practice; violence, trauma, and their prevention; behavioral health and substance use; social determinants of health and local health disparities; and restorative justice theory and practice.	Provision of best practice education on socially relevant topics to teachers, school administrators, and paraprofessionals supports the mission and core beliefs of Santa Fe Public Schools.	New

Advocacy Recommendations	Rationale	In process or new?
F9) Advocate to the Santa Fe Public School District to develop K-12 district-wide policies and plans on the prevention of suicide, interpersonal violence, trauma, substance use disorder, and on the promotion of comprehensive sex education and healthy relationships.	Practices that aim to prevent violence and trauma and that promote health can help to reduce risk for problematic substance use.	New
F10) Advocate at a state level for additional state funding for jail community re-entry programs and services.	"Each year, more than 600,000 people leave prison and re-enter the Nation's communities. Within three years of their release, more than 2/3 of these individuals are rearrested, and ¼ return to prison with a new sentence. Resumption of drug abuse precipitates or contributes to much of this recidivism."[30] People leaving jail are often not prepared for release and, when released, encounter challenges in accessing the programs and services that help them become healthy, productive members of their communities.[31]	New
F11) Advocate at a state level for legislation allowing and funding the implementation of supervised consumption spaces.	Supervised Consumption Services, also known as supervised injection facilities (SIFs), are controlled health care settings where people can consume drugs under clinical supervision and receive health care, counseling, and referrals to health and social services. SIFs have been rigorously studied and found to reduce the spread of infectious disease, prevent overdose deaths, and eliminate improperly discarded injection equipment. Engagement by people who use drugs with staff in these facilities enhances the ability of people to function productively in society, increases access to drug treatment and other services, and saves taxpayer money.[32]	New
F12) Advocate at a state level for the adoption of a state statute that would mandate a regular (i.e. yearly) overdose fatality review team process.	"Overdose fatality reviews allow states to examine and understand the circumstances surrounding fatal drug overdoses. Review teams can uncover the individual and population factors and characteristics of potential overdose victims. Knowing the who, what, when, and how of fatal overdoses provides a better sense of the strategies and coordination needed to prevent future overdoses and results in the better allocation of overdose prevention resources and services.[33]"	New
F13) Advocate at a state level for the concept of automatic expungement of criminal records for possession of controlled substances to assist individuals with their overall recovery potential to include assisting with housing application approvals and employment opportunities.	Expunging prior convictions removes thousands of barriers that allow people to fully reenter their community and society. When someone has a criminal record, they are often ostracized from their community, have a difficult time accessing any services, such as housing, treatment or any public support. Research shows that those who have expunged their record have higher earning wages, lower recidivism, and lower crime rates. New Mexico currently has an expungement law, however the burden is on the individual to petition the court. Most people aren't aware that they can get an expungement, don't apply, or don't have the means to hire a lawyer to advise them or pay the fees.	New
F14) Advocate at a state level for the New Mexico based legislative campaign to provide state subsidized insurance coverage for immigrant families not covered by the Affordable Care Act.	Currently, immigrants have to rely on an assortment of health care options as they are not eligible to buy coverage under the Affordable Care Act. Not having consistent coverage impedes immigrant families' access to crucial and comprehensive health care, including substance use prevention, harm reduction and treatment services.	In Process

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Appendix A: Resolution

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2017-77

INTRODUCED BY:

Mayor Javier M. Gonzales	Councilor Signe I. Lindell
Councilor Renee D. Villarreal	Councilor Joseph M. Maestas
Councilor Peter N. Ives	Councilor Christopher M. Rivera
Councilor Carmichael Dominguez	Councilor Ron Trujillo

A RESOLUTION

ESTABLISHING A MUNICIPAL DRUG STRATEGY TASK FORCE TO DEVELOP NEW APPROACHES TO PROBLEMS RELATED TO BOTH DRUG ADDICTION AND POLICY RESPONSES TO IT BY COLLABORATING, STUDYING, GATHERING INPUT FROM THE SANTA FE COMMUNITY AND ISSUE-EXPERTS, AND PROPOSING RECOMMENDATIONS FOR A COORDINATED DRUG STRATEGY ROOTED IN PUBLIC HEALTH AND SAFETY.

WHEREAS, the City of Santa Fe has been long concerned about the high rates of drug use and dependency and the impact on the people of Santa Fe; and

WHEREAS, in 2016, 45 people in Santa Fe County died of a drug overdose resulting in an overdose death rate of 32.9 deaths per 100,000; and

WHEREAS, overdose death rates now outnumber traffic fatality rates; and

WHEREAS, between July 1, 2016 and May 31, 2017 there were 229 arrests for possessing a controlled substance other than marijuana, 61 arrests for trafficking and/or distributing a controlled substance, and 156 arrests for possessing drug paraphernalia by the Santa Fe Police Department; and

1

WHEREAS, the Santa Fe Police Department began carrying and administering Naloxone, commonly known as Narcan, a medication used to block the effects of opioids especially in overdose situations, in 2017; and

WHEREAS, the Santa Fe Fire Department averaged between .43 and .58 EMS trips per day with Naloxone as an intervention between 2012 and 2017; and

WHEREAS, the City of Santa Fe experiences high numbers of documented incidents for property crime related to problematic drug and alcohol use; and

WHEREAS, drug abuse and dependence is a complex issue that requires innovative approaches to harm reduction in drug use; and

WHEREAS, the Governing Body recognizes that the City cannot arrest its way out of problematic drug and alcohol use and addiction and understands that the underlying problems related to some crimes are associated with persons who have problematic drug and alcohol use and addiction and is intent on breaking the cycle of drug use, crime, and incarceration; and

WHEREAS, there is a need to explore and discuss multidisciplinary approaches to treating addictions and problematic drug/alcohol use that lead to criminal activity and a need to increase the availability of prevention and education, social service, treatment, and harm reduction resources; and

WHEREAS, in 2014, the City of Santa Fe established the 2nd Law Enforcement Assisted Diversion (LEAD) program in the country, a pre-booking diversion program and an example of a municipal drug strategy rooted in harm reduction and public safety; and

WHEREAS, early evaluation results of the Santa Fe LEAD program show a reduction in jail and court costs as well as recidivism back into jail for clients who remain engaged in the LEAD; and

WHEREAS, in 2014/2015, the mayor of the City of Ithaca convened a group of community experts and initiated a process to develop new approaches to problems related to both drug addiction and the cities policy responses to it; and

WHEREAS, a report was generated from the process titled, "The Ithaca Plan: A Public Health

and Safety Approach to Drugs and Drug Policy" that presented findings and recommendations in four domains: Prevention, Treatment, Harm Reduction and Law Enforcement; and

WHEREAS, the Ithaca plan could serve as a model for the city of Santa Fe's Municipal Drug Strategy Task Force; and

WHEREAS, the Governing Body desires to invite representatives from local governmental entities, state agencies, law enforcement agencies, the judiciary, social service, harm reduction and medical providers, business community, drug policy experts, immigration and human rights, and representatives of people most impacted by problematic drug use from Santa Fe to participate in a Task Force to join the City of Santa Fe's efforts to explore and recommend solutions to address public safety and public health related to problematic drug and alcohol use and addiction in the domains of prevention, treatment, harm reduction and law enforcement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the Governing Body hereby creates a Municipal Drug Strategy ("MDS") Task Force.

Section 1. NAME: The task force shall be called the Municipal Drug Strategy Task Force ("MDS Task Force").

Section 2. PURPOSE: The purpose of the MDS Task Force is to collaborate across different areas of focus (prevention, treatment, harm reduction, law enforcement), in order to explore and recommend long-term solutions in a Community Strategic Plan for addressing the issues arising from persons struggling with problematic drug and alcohol use.

Section 3. DUTIES AND RESPONSIBILITIES: The MDS Task Force shall develop a Community Strategic Plan within 6 months that includes any necessary requests for funding and shall:

A. Study the drug related problems in the city of Santa Fe.

B. Explore and discuss multidisciplinary approaches to treating addictions that lead to criminal activity.

C. Form four working groups (Prevention, Treatment, Harm Reduction, and Law Enforcement).

D. Host a series of community conversations to gather insight into the concerns and ideas of community members to ensure that the City's drug strategy is guided by community input.

E. Convene a series of focus groups around the city to learn how drug use – and current drug use – affects communities, families and individuals and how current drug policies can be improved. Focus groups should represent a specific constituency, i.e. law enforcement personnel; physicians, nurses and pharmacists; people who use drugs; young people; people of color; undocumented people; parents; business owners; and people in recovery.

F. The MDS Task Force shall consult with Santa Fe Opiate Safe (SOS), a committee of the Santa Fe Prevention Alliance, and other related groups when preparing the formal report to the Governing Body as noted below.

G. In a formal report to the Governing Body, recommend policies and practices in the four domains (Prevention, Treatment, Harm Reduction, Law Enforcement) the city could adopt to improve responses to drug use.

H. Any other related issues that may be identified by the MDS Task Force.

Section 4. MEMBERSHIP; OFFICERS; TERMS:

A. *Membership.* The MDS Task Force membership shall consist of twenty members appointed by the mayor with the approval of the Governing Body. The MDS Task Force will be comprised of representatives from the City of Santa Fe, Santa Fe Police Department, Santa Fe Fire Department, Santa Fe County, Santa Fe County Sheriff's Office, the District Attorney's Office, the Public Defender's Office, local area schools, a local area medical center, the Magistrate Court and the District Court, local social, medical and harm reduction service providers, including youth organizations, drug and alcohol prevention and education experts, drug and alcohol treatment centers, individuals with expertise and research experience in the field of addictions, individuals with expertise

in drug policy, business leaders, individuals with expertise in immigration reform an
civil rights issues, individual and families most impacted by problematic drug and al
other stakeholders that may be determined by the Governing Body or the MDS Task

B. *Officers.* The mayor shall appoint the chairperson. The
appoint a vice chairperson.

D. *Terms.* Members shall serve until they complete their duties and res
forth above.

E. *Compensation.* Members shall serve without compensation

Section 5. VACANCIES: Vacancies on the MDS Task Force shall be
manner as initial appointments.

Section 6. MEETINGS; DURATION: The MDS Task Force shall c
public conversations and, at least once per month thereafter shall conduct public meet
with the Open Meetings Act and adopted city policy and procedures. Unless furthe
Governing Body, MDS Task Force meetings shall conclude no more than 8 month
adoption of this resolution.

Section 7. STAFF LIAISON: Community Services department staff
liaison to the Task Force.

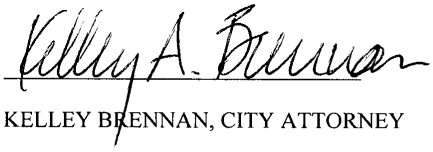
PASSED, APPROVED AND ADOPTED this 25th day of October, 2017.

JAVIER GONZALES, MA

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



KELLEY BRENNAN, CITY ATTORNEY

M/Legislation/Resolutions 2017/2017-77 Municipal Drug Task Force

Appendix B: Community Conversation Findings Report

REPORT
May 10, 2019

Santa Fe's Municipal Drug Task Force – Community Conversations Findings

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Introduction

In 2017 the City of Santa Fe passed a Resolution (Resolution No. 2017-77) "to establish a Municipal Drug Strategy Task Force to develop approaches to problems related to both drug and alcohol addiction and policy responses to it by collaborating, studying, gathering input from the Santa Fe community and issue experts, and proposing recommendations for a coordinated drug strategy rooted in public health and safety." The Task Force was officially launched in summer of 2018 under the leadership of Mayor Webber. The Municipal Drug Strategy Task Force (MDTF) has been meeting monthly since its launch and has been charged with recommending policies and practices as alternatives to incarceration.

First pioneered as a public health measure in Europe in the 1980s and 90s, Municipal Drug Strategies challenge local communities to work from a public health, racial justice and human rights framework instead of defining people who use drugs as criminals in need of coercion and punishment.

Community Input is Essential

"At the state and federal level, problematic drug use often becomes a matter of statistics, trends, spreadsheets and inflammatory rhetoric. Communities, on the other hand, understand first-hand the drivers of problematic drug use and its impact on individuals, families, neighborhoods, first responders, health professionals and resources. The drive to identify and implement effective solutions springs from those who understand the challenges most intimately."[1]

The Municipal Drug Strategy Task Force (MDTF) formed four teams to explore the issues and make recommendations related to Prevention, Treatment, Harm Reduction and First Response. In addition to studying the issues through an examination of local and national research and presentations, the MDTF designed a process to engage community members in community conversations designed to inform the recommendations.

Community Conversation Process

Two hundred thirty-one community members participated in community conversations or interviews over the course of a four-month period from November 2018 through February 2019, including both individuals directly impacted, those whose voices are often not heard (students, parents, individuals who are currently using or are in recovery, homeless individuals, women, immigrants and people of color), as well as community stakeholders (clinicians, nonprofit providers, hospital and Emergency Management Service staff, government and business leaders, and law enforcement). **Thirteen community conversations** were facilitated involving nearly **180 individuals**, as well as a **dozen one-on-one meetings** and **forty-two survey responses** from law enforcement personnel. The intent of community conversations was to gather input from a diverse spectrum of the community to better understand how alcohol and drug use and drug policies affect different communities so that recommendations better reflect the needs of all members of the community, especially those who are often not heard.

[1] Municipal Drug Strategy: Lessons in Taking Drug Policy Reform Local. Drug Policy Alliance. 2018

SUMMARY OF FINDINGS

Feedback from community conversations, surveys and individual interviews are captured in the sections on the following pages. First, feedback from individuals who have been directly or indirectly impacted is presented, including individual users, individuals who are in recovery, students, parents and families, and people of color and those from the LGBTQ community. One overarching theme across all groups was that not all alcohol and drug use is problematic, however the human toll of problematic alcohol and drug use on individuals and families is devastating. Participants shared stories of how widespread the problem is in communities across racial backgrounds and socio-economic status, and how it has resulted in trauma and chaos not only for individuals directly impacted but for their families. One participant shared: *"It is hard to go anywhere without alcohol being around. It was heavily used and abused even in my church communities. My family has suffered a lot of pain from alcohol abuse. It tore our family apart."*

I. Feedback from Individuals Impacted

A. PREVENTION

FINDING 1: There is a perceived information gap in many communities, especially for youth and in the Spanish-speaking immigrant and Native communities, about the risks of alcohol and drug use, prevention, treatment options, harm reduction and diversion programs.

There is a sense that there is less culturally and linguistically competent community and medical education for Latinx immigrant families. Participants consistently expressed that crucial information is simply not getting to them.

FINDING 2: Lack of educational, extracurricular and recreational activities for children and youth is a deep frustration for parents who believe that positive programming can help prevent problematic alcohol and drug use.

The programs that do exist are out of reach due to cost, especially for low-income families with multiple children. Activities for whole families are also scarce and expensive.

FINDING 3: Alcohol and drug education and counseling support for youth in schools could be improved.

Students, parents and individuals in recovery consistently stated that most information individuals receive about alcohol and drugs is from peers, street sources, social media or the internet, which does not include information about what alcohol and drugs do to the body and one's life. Community members highlighted that alcohol and drug use can start younger than society generally imagines and affect several generations within families. They recommended early education and intervention to include information about delaying the onset of use, preventing problem alcohol and drug use, and understanding that recovery is possible and where to get help. Adults who work with youth highlight the need for quality drug education as well as peer and adult mentoring programs, and ways to ensure that the teen health centers are seen by youth as safe places to go for help. Additionally, families advocate for counseling and support services to identify and respond to youth as early as possible to prevent early substance use.

Participants also highlighted the need to engage the medical community to help educate patients about the risks of prescription drugs, over-prescribing and alternatives that are less harmful or addictive.

FINDING 4: Community members believe that economic insecurity, racism and poor working and housing conditions pose a threat to family stability and emotional wellbeing. This can lead to problematic alcohol and drug use among workers and their children, as well as lack of access to treatment options.

Additionally, there is a general lack of awareness about resources available in the community, how to navigate systems of care, and how to get support for key challenges such as housing, health food, transportation and mental health care.

One participant shared: "What helped me was Maslow's Pyramid of Hierarchy. Having my basic needs met has me in recovery. If you don't have this how can you advance in life?"[2]

FINDING 5: Negative images and stereotypes contribute to stigma within the immigrant and non-immigrant communities, and often keep families from talking openly about problematic alcohol and drug use or seeking help.

Stigma continues to be an ongoing challenge that prevents individuals and families from acknowledging problematic alcohol and drug use and reaching out for support. There is a sense that much of the community education around alcoholism and DWI may contribute to stigma. For example, commercials about DWI's often focus on the negative consequences of drinking while driving, and rarely convey the message "If you need help or treatment, call this number."

Additionally, many participants spoke of the prevalent stereotypes regarding their countries of origin (images of cartels, gang violence, and smugglers in English and Spanish media) that lead to real discrimination within the criminal justice system, mass detention and incarceration of immigrants in the U.S. and subsequent deportation and separation of families.

FINDING 6: **There is a perception that the "war on drugs" has failed to improve problematic drug use and should be replaced by a model that promotes recovery through prevention and treatment.**

Participants overwhelmingly agreed that there needs to be alternatives to incarceration and a focus on helping people by connecting them to the support they need at that moment. Some individuals may be ready and motivated to enter a treatment program; others may need assistance with an immediate need such as housing, food, a safe place, medical treatment, etc.

B. TREATMENT

FINDING 1: There is a perception that access to alcohol and drug treatment is severely limited due to lack of affordable treatment options available to individuals at the time they are ready for treatment (also known as "treatment on demand").

Individuals in recovery programs shared stories of long waits and other barriers that prevented them from accessing treatment earlier. There is also concern that the community lacks transitional and integrative services such as halfway houses and programs to support long-term sobriety once the individual has completed a treatment program. Additionally, women in recovery shared that there are limited treatment options for women with young children while the need far exceeds community capacity. There is also a perception that there are insufficient drug treatment programs available to Spanish speakers and to the immigrant community at large.

[22] Maslow's Pyramid of Hierarchy of needs is a motivational theory in psychology comprising a five-tier model of human needs, often depicted as hierarchical levels within a pyramid. Needs lower down in the hierarchy must be satisfied before individuals can attend to needs higher up. Simplypsychology.org.

One participant currently in a 30-day recovery program shared: "Every time I tried to get in to treatment there was a waiting list. It took me fourteen years to get into recovery. While I was waiting for a bed I turned to drugs and alcohol."

Participants shared: "Treatment works for those who participate. But doesn't work for those who are resistant." "I feel that there should be more recovery outlets and more longer term options such as 3 or 6-month programs."

Other participants shared: "Even when there are treatment centers available, there are access issues – money, geography, insurance." "People coming from jail are given priority over people who want treatment." "It's hard to get healthy when you don't have enough food to eat. Treatment programs don't have enough funding."

FINDING 2: There is a perception that trauma, PTSD and mental health issues including depression and anxiety are some of the underlying causes for alcohol and drug use. Additionally, there is a belief that there are insufficient mental health services to help people get appropriate care instead of using alcohol and drugs to cope.

Numerous community members talked about how trauma such as abuse, neglect, family separations or incarcerations impact individuals and families, and are often major underlying factors in substance use. Women in recovery programs also discussed the importance of childcare and supports for young mothers who are seeking treatment and long-term sobriety in order to keep families together and prevent further generational trauma.

One participant shared: "Kids are hurting. There are severely depressed at 11-12 years of age. They listen to dark lyrics. They are taking any drug they can find – Advil, Nyquil, prescription drugs, alcohol, marijuana. They take drugs because they don't want to be awake."

Another participant shared: "Me and my mom had to flee from my abusive father, which caused us to be poor and to survive by shelter hopping. When I was a teenager my dad came back into my life. He was still using meth and was very abusive and mean. My dad was diagnosed with bipolar disorder and he used meth and heroin to deal with his symptoms and trauma triggers."

FINDING 3: Treatment is seen more broadly than inpatient treatment programs. Participants talked about the need for effective work programs, mentoring and job training, education, housing, childcare and an opportunity to participate in society in a positive way.

Participants discussed the importance of providing support with employment, education, housing and childcare to provide stability and safety as a core function of treatment. Additionally, community members talked about the critical importance of addressing these life issues at times of transition (e.g., transitioning from jail to the community or from shelter or temporary housing).

FINDING 4: Medication Assisted Treatment (MAT) capacity needs to be expanded and promoted, and made more generally available in the community and in correctional settings**.** Numerous individuals reported successful treatment with Suboxone programs and recommended that these programs be expanded.

One participant shared: "Treatment programs work for those who do want help. For the people who are working the program it works. For me my Medication Assisted Treatment (MAT) and Intensive Outpatient Program (IOP) have helped."

Another participant shared: "Treatment programs are not working because they are abstinence-based. My son tried rehab at several centers – all abstinence-based and none of them worked. He was kicked out of every one of them due to relapse. He was able to get drugs in rehab, and he made other contacts with drug users at rehab. Addicts have a disease that needs treatment or relapse will happen. Suboxone stopped the relapses and my son only got better through Suboxone and the support of the LEAD program. Family involvement and counseling is crucial to an individual's success as well."

FINDING 5: The community needs to build detox capacity and programs.

Numerous individuals reported the need for expanded detox capacity. Detox or detoxification is the biophysical withdrawal process that occurs when a person abruptly stops using drugs or alcohol following sustained use of those substances. This is a medically fragile period of time, and treatment providers often do not have the capacity to supervise this process. This can limit treatment options for people who desire treatment.

C. HARM REDUCTION

FINDING 1: There is a lack of awareness of existing harm reduction practices in the community.

Though some individuals were aware of needle exchange and Narcan distribution and training, they also believed that additional outreach and education is needed. There is a lack of knowledge about the 911/Good Samaritan law.

FINDING 2: There is a perception that harm reduction services need to be expanded and promoted through outreach and education to users, families and the community at large.

There is broad support for expanded needle exchange programs, and more education and distribution of Narcan. Other ideas promoted by participants include "free drunk rides", safe consumption sites, heroin assisted treatment and increased outreach by professionals that get out in the community to encourage users to make healthy decisions about the "safe use of drugs" and help them get healthy through screenings for diseases.

One participant shared: "Reducing stigma would help people stay alive. My pride hindered my own ability to get support. It took me awhile to participate in the safe needle exchange program after witnessing people use dirty needles repeatedly. Continue the distribution and overdose prevention in our community. Again, de-stigmatizing drug use in out community is key in keeping people alive."

D. EMERGENCY RESPONSE/PUBLIC SAFETY

FINDING 1: There is a perception that the Fire Department/Emergency Medical Services personnel are there to help everyone in the community and have been helpful to alcohol and drug users in crisis.

One participant shared: "The Fire Department has really helped me. I hear that in group therapy too. They are helping a lot of people."

FINDING 2: Community members believe that law enforcement personnel are primarily focused on measures such as incarceration and criminal conduct, and are not well situated to deal with drug use or mental health crisis issues.

There is a perception that local law enforcement is short-staffed and stretched thin, and not particularly focused on community policing or rehabilitative responses. Individuals in recovery programs suggested that additional education is needed for law enforcement personnel to increase understanding about addiction as a disease and ways to deal with people suffering from addiction and those with mental health problems. Community members who were aware of the LEAD program shared that the officers in the LEAD program were helpful.

One participant shared: "LEAD works and should be expanded. I have the utmost respect for the people who work with this program. It is the only approach that worked for my son. LEAD uses a harm reduction approach – when they relapse they are not kicked out – they acknowledge that addicts are going to relapse and they work through this with them. An addict is a human being. I stopped referring to my son as an addict. He is a human being with a disease."

Another participant shared: "I think an option for treatment would help. The jails make money and cause bad things. I went to jail for six months for an empty syringe!"

And another participant shared: "Law enforcement has a real issue with racism and judgment. They are hired to serve and protect, yet they choose to judge. A lot of times their jadedness prevents them from being helpful to the community."

FINDING 3: Participants, especially individuals from the immigrant community, feel targeted, criminalized and over-policed because of their race, national origin, language, and economic status.

There is a perception that there is a double standard when it comes to how law enforcement and the law in general treat Latino immigrants, people of color, and poor people.

One participant shared: "I work as a bartender at private parties, and I see high society people, even elected officials, drive away drunk. But in these rich areas of town, there are not police waiting to catch them, only in poorer areas. Being poor is a crime."

One participant shared that police need help understanding the short and long-term impact of drug arrests on whole families. It was pointed out that police show up to arrest people, but they do not offer alternatives. They do not give family members information about treatment or counseling programs.

Another participant shared a traumatic experience she had at home with her children when the SWAT team arrived looking for drugs. When nothing turned up and no arrests were made, the officers were unapologetic, dismissive and rude.

FINDING 4: There is a lack of awareness of alternatives to incarceration such as the Santa Fe County LEAD program.

There is a lack of awareness in the community about the LEAD program and its effectiveness in both decreasing arrest rates and assisting individuals with treatment. When informed about the existence of the program, most participants were in support of expanding the program and educating the community about its effectiveness.

FINDING 5: There is a perception that incarceration worsens problematic drug use, as individuals do not have adequate opportunities for treatment, medication assisted treatment or mental health care while in jail.

Numerous individuals shared stories of harsh conditions they experienced while in jail including inadequate food and harsh living conditions. There are also limited opportunities for treatment or medication-assisted treatment, and inadequate support for helping with the transition back to community.

One family member shared: "At first I thought my son would be safe from drugs when he was arrested and in jail, but it turned out that he had as much access to drugs in jail as he did on the street (heroin that he would get from other inmates). The conditions in the jail were really harsh – limited heat, food and counseling support while in jail – and certainly no treatment."

Another participant shared: "Addicts should never be incarcerated for drug use alone. When my dad was in prison, he was given Lithium and it helped, but he could not stay on Lithium out in the community. He didn't get any social or health services support."

FINDING 6: In general, participants are open to decriminalization of cannabis, both for medical purposes and for recreational use.

One participant shared: "I think we need to legalize cannabis. It's not a drug - it's medicine. As a personal card holder I have maintained recovery from heroin for over ten years."

10

II. Feedback from Stakeholders in the Community

A. PREVENTION

FINDING 1: There is a widely held perception that alcohol use is widespread due in part to its being more socially acceptable as a legal substance, yet is extremely harmful. Prevention efforts must address alcohol abuse in addition to drug use through outreach and education of adults, families, youth and children.

Alcohol's harmful effects include alcohol-related health problems and deaths, injuries, DWI's and are also a factor in domestic violence, unplanned pregnancies and suicide deaths. It is estimated that 10 percent of hospital admissions and the majority of EMS calls are alcohol-related. Poly-substance use was also highlighted as a major issue, with use of heroin, meth, and opioids in combination with alcohol as a common occurrence. Clinicians suggest that individuals with behavioral health issues such as depression, anxiety or other stressors or mental health issues often self-medicate with alcohol or other drugs.

One stakeholder shared: "Alcohol is extremely prevalent and underlies everything; it is under reported, glossed over and minimized. It is a complicating factor to liver disease and many health and safety issues."

Another stakeholder added: " We are not seeing marijuana related calls at this point, not as much as we see alcohol related calls such as individuals detoxing on the street due to a lack of a medical detox environment." Another stakeholder added that the current detox facility has limited capacity as a licensed "social detox".

FINDING 2: Intergenerational substance abuse is a significant issue and there is a need to break the cycle of family alcohol and drug use.

EMS and law enforcement providers shared experiences of emergency or overdose calls where children or other families are present and affected. There is a need to address intergenerational drug use. Stakeholders often witnessed examples of heroin use among two generations of family members. There was also concern raised around ensuring women who give birth to babies who are exposed to alcohol and drugs are provided with adequate support to prevent further trauma.

One participant shared: "We are seeing more drug exposed newborns at the hospital when we screen babies at birth. Others expressed concerns about the nature of screening and whether alcohol is adequately screened and addressed."

FINDING 3: Problematic employee alcohol and drug use affects local business as employers report that hiring and retention can be problematic. Employers also believe stigma is a barrier to seeking treatment.

Business leaders reported that stigma prevents the community from with dealing with alcohol and drug abuse effectively. There is a perception that stigma surrounding opiates is not as profound as other drug use.

One participant shared: "I have a concern that even though alcoholism and addiction are diseases, community conversations are often shame-based. There is a need to model a different way of perceiving this issue and dealing with it as a community."

FINDING 4: The City could do a better job of informing the community of services and resources, and should support education and prevention efforts targeted at children, youth and vulnerable adults and families.

There was consistent support for more education including information on the effects of drug and alcohol use for children at an early age. Law enforcement personnel also suggested the importance of having affordable youth and community activities and programs including mentorship resources for youth and families.

One law enforcement personnel shared: "Young people need activities and places to go. There is nothing in Santa Fe for young people." Others shared concerns around lack of employment, school or activities creates a sense of boredom among youth that is then filled with experimentation with substances.

B. TREATMENT

FINDING 1: Stakeholders consistently reported that increased behavioral health services are needed, both mental health services (including early screening) and a range of treatment options for substance abuse. It was proposed that there is not one treatment method that will work for all individuals, but that there needs to be a range of options provided to meet people "where they are."

Stakeholders suggest the need for a definition of treatment that is broad enough to address the spectrum of alcohol and drug use for those who don't want treatment and those who do. Stakeholders reported that there is a broad spectrum of needs and readiness for treatment, with some individuals needing services such as mental health counseling, housing, healthy food, employment or other necessary supportive services instead of formal alcohol or drug treatment. Others individuals need harm reduction services to keep them healthy and alive. And individuals who are motivated or ready for treatment, need a treatment option that works for them. For some, medication assisted treatments are key to recovery. Others may select inpatient or outpatient rehab programs, with additional community support. Stakeholders stressed the importance of providing treatment for co-occurring disorders, and to broaden the focus to serve individuals through a continuum of care.

FINDING 2: There is a need for a community-based, coordinated system of care with programs and services for both mental health and substance abuse that address the social determinates of health.

There is a common perception that making improvements in the coordination of care across the many systems that interact with individuals is key to effective screening, assessment and interventions. Coordination of care was seen as essential to prevent individuals from falling through the cracks in the system. Support services for homeless and vulnerable people around the social determinates of health are also essential to address (housing, transportation, healthy food, etc.). Community members highlighted that the current housing crisis is a major contributing factor to substance use. It was suggested that when people don't have housing or are living in precarious housing, substance use is often a factor of survival. Examples given include those individuals who use uppers to stay awake and alert at night to avoid being victimized, or downers to be able to sleep in a loud disruptive shelter environment.

Stakeholders point out that crisis often occurs during transitions and points to the need to focus on how individuals are served at points of contact/transition at the time of hospitalization, emergency room admission, and incarceration discharge. Shared information between agencies would help providers better coordinate care and support services, and result in better care than when an agency operates in their own silo. It was suggested that there are many evidenced-based models across the country that have been implemented in ways that address HIPPA and other restrictions that could be adopted in the Santa Fe community.

The following are a sample of ideas shared by participants of what could be accomplished through coordination of resources: Better transitions from ER admission to MAT treatment programs or other treatment providers, or provision of Suboxone in ER with referral for follow up (referral, adequate prescription meds to cover time to access treatment, address other barriers to successful treatment access at discharge); continuation of MAT services while incarcerated to prevent relapse; post-rehab support to support long-term sobriety with housing, employment and other supports; coordinated transportation solutions with City transportation including regular bus stops at the front doors of medical and behavioral facility sites (e.g. current stop is significant distance from La Familia's facility front door) or other assistance with transportation; lockers for homeless individuals to store their belongings so they are free to attend appointments; and employment opportunities such as the "Better Way" Life Link employment program.

FINDING 2: There is a lack of adequate medical detox capacity and options for those who detox in the hospital but then relapse after discharge due to lack of follow up treatment.

CHRUISTUS St. Vincent is currently conducting seventy chemical dependency consults monthly during inpatient hospitalizations, which provide the opportunity for the patient to detox during their hospitalization. However, often there are not enough spaces in treatment facilities when they discharge and patients often relapse in the community while waiting for a bed in a treatment facility.

FINDING 3: There is a need to expand capacity of medication-assisted treatment programs and to provide counseling and assistance with Social Determinates of Health along with medical care to treat the whole individual.

C. HARM REDUCTION

FINDING 1: Community members suggested that alternatives to keep people healthy and alive should be a priority. Ideas discussed included expanded Narcan distribution and education, safe injection sites, street outreach and education. Stakeholders also recommended expanding the capacity for available needle exchange programs.

Stakeholders propose that efforts to distribute and train the community about Narcan use have saved lives. However, it is believed that these efforts can be strengthened. It is estimated that 85,000 needles are exchanged per month in Santa Fe, however the need is larger that what is currently being provided. There continues to be many needles improperly disposed of in the community and are regularly found in the streets around the neighborhoods where shelters are location, which is a public health concern for the general community.

FINDING 2: Medical providers and pharmacies should provide better education and provide patients with information and alternatives to medications that can addictive or where dosage could be decreased.

There is a need for discussion between medical providers and pharmacists around the use of narcotics and ways to improve communication around prescription practices between clinicians and pharmacists. There is a perception that many of the large box chain pharmacies have little communication with physicians or patients to flag patients at risk and to encourage conversations with patients on complications possible from medication use and alternatives or dosages that would be less risky. There are some instances where people were not aware of the dangers of a medication but were open to getting information on safer medication practices.

One pharmacist shared: "We had an instance of someone on an elephant dose of Oxy and when approached about reducing Oxy intake, obtained cannabis card and made changes to improve his safety. It is important for pharmacists to have non-judgmental conversations with patients related to safer medication practices."

D. EMERGENCY RESPONSE/PUBLIC SAFETY

FINDING 1: Law enforcement personnel and other stakeholders are concerned about law enforcement capacity to address problematic alcohol and drug issues effectively due to staffing shortages, turnover and the size and complexity of the challenges. Stakeholders and law enforcement personnel propose that law enforcement is not best situated to deal with drug and alcohol use.

Forty-two law enforcement personnel participated in the MDTF survey. Law enforcement is often responding to emergencies such as individuals who are publicly intoxicated or drug overdoses, and are on the front line with EMS personnel in finding solutions to these every day crises. Law enforcement and EMS personnel point out that the community lacks adequate resources and coordination to deal with these types of crisis such as detox programs or crisis centers for mental health resources. Law enforcement personnel share that they are often dealing with the same individual multiple times. There is a perception that existing programs are not working well enough to help stop the cycle of addiction for these individuals.

One participant shared: "Currently law enforcement spends an enormous amount of time dealing with alcohol related ambulance assistance calls."

Others shared that cheap and accessible alcohol are extremely problematic, with local stores selling alcohol to intoxicated individuals.

One participant shared: "We deal with a lot of people that are drinking in alcohol in unlicensed public places. Many homeless people drink in city parks. Many of them get hit by cars as a result."

Another shared: "Alcohol plays a major role in domestic violence, assault and battery."

Some law enforcement officers stated that the current system does not seem to be effective in reducing drug-related crimes and are in interested in effective alternatives. There are mixed opinions among law enforcement personnel about the effectiveness of alternatives to incarceration such as diversion programs, and some shared that they believed that the diversion program, LEAD, needs improvement. There was a perception among law enforcement that some individuals manipulate diversion programs to evade punishment and involvement with the criminal justice system. Other community stakeholders such as clinicians and treatment providers believe that diversion programs should be expanded and improved.

FINDING 2: Need to educate clinicians and the community to look at cannabis objectively in terms of potential benefits and risks. There was a high level of support among clinicians for the decriminalization of cannabis, and an interest in exploring the use of cannabis in treating some conditions that are not treated as well with current legal drugs or medications.

FINDING 3: Expansion of Teen Court, Law Enforcement Assisted Diversion (LEAD) Program and other evidenced-based interventions should be explored to intervene earlier and to provide treatment as alternatives to incarceration.

III. Differing Perceptions Among Community Members

Community members and those most impacted by our city's drug and alcohol policies agree that existing policies have been inadequate and to a degree unresponsive to the needs of the community. Community members and individuals most impacted offered suggestions focused on prevention, treatment, and harm reduction to treat drug and alcohol use as a public health issue (that should be addressed together as a community). In order to move towards this vision, suggestions were made to address the stigma that exists around drug and alcohol use and to engage the broader community in conversations and solutions to address the challenges at a community level.

It is also important to highlight areas where there is a disparity in perceptions. These differences create opportunities to bring together stakeholders with different opinions and philosophy and to identify and promote new and more effective approaches.

One area where disparities in perception exist include the way that law enforcement and community members see the role of law enforcement.

Finding 1: There is a difference between the perceptions of law enforcement personnel and community members about the role of law enforcement in dealing with alcohol and drug use as a public health issue. Individuals, family members and community stakeholders generally promote restorative or rehabilitative responses as approaches to improve the health and wellbeing of individuals. Law enforcement officer's perceptions were mixed; however a significant number of responses from law enforcement promote drug policy approaches based on criminalization and punitive measures. These divergent ideas highlight a tension between punitive and restorative/rehabilitative drug and alcohol policy.

Forty-two law enforcement personnel participated in the MDTF survey. Of those responses, there is a perception among law enforcement personnel that their role is to enforce the law and deal with criminal matters to protect the communities they serve. Their training largely reinforces an orientation to arrest individuals in violation of drug/alcohol city ordinances and state statues. Examples of feedback from law enforcement personnel surveyed include suggestions to stop the supply, increase the number of officers on duty, employ different penalties and additional ordinances, and implement mandatory treatment and harsher punishments for repeat offenders. A few community members also raised the issue of stopping the supply of illegal drugs, however there was little to no discussion around the need for increased penalties or harsher punishments.

Alternatively, community members and individuals most impacted tend to believe that punishing individuals for drug use is counterproductive and can do more harm than good in terms of long-term outcomes. Some community stakeholders advocate for a more creative role for law enforcement including community policing and a collaborative approach of working with community partners to connect individuals to treatment and harm reduction resources that will ultimately help to break the cycle of problematic and intergenerational alcohol and drug use.


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Appendix D: The Denver Collaborative Approach: Leading the Way in Municipal Marijuana Management

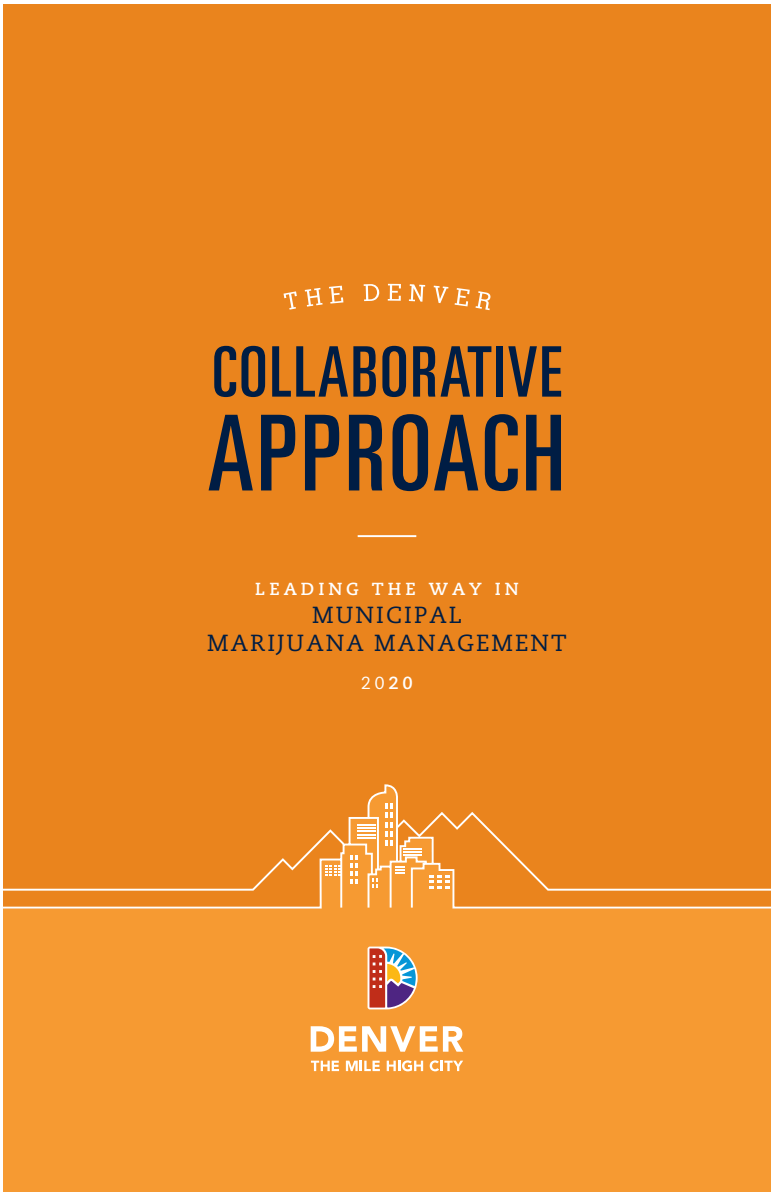


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I. INTRODUCTION

MARIJUANA IN THE MILE HIGH CITY

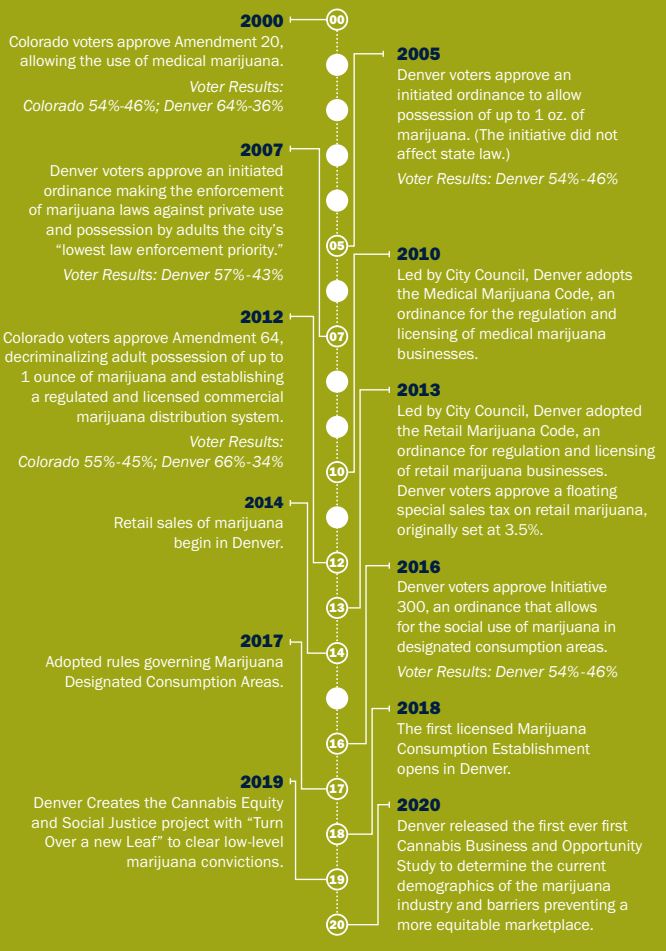
The first retail sales of recreational marijuana in the United States began in Denver on Jan. 1, 2014. Under Mayor Michael B. Hancock, Denver created a collaborative model of marijuana management and emerged as a global leader in marijuana regulation. Denver has embraced a management model that is quick, responsive and nimble because the industry is developing and innovating quickly, and the laws are changing and evolving at an equally rapid pace.

Medical marijuana has been legal in Colorado since 2000, when voters approved Amendment 20. In November 2012, the voters of Colorado approved Amendment 64, which legalized retail marijuana. Since the passage of these amendments, the City and County of Denver has adopted ordinances to regulate, license and tax both medical and retail marijuana.

TIMELINE OF

MARIJUANA SALES & MANAGEMENT

IN COLORADO



2000
Colorado voters approve Amendment 20, allowing the use of medical marijuana.
Voter Results: Colorado 54%-46%; Denver 64%-36%

2005
Denver voters approve an initiated ordinance to allow possession of up to 1 oz. of marijuana. (The initiative did not affect state law.)
Voter Results: Denver 54%-46%

2007
Denver voters approve an initiated ordinance making the enforcement of marijuana laws against private use and possession by adults the city's "lowest law enforcement priority."
Voter Results: Denver 57%-43%

2010
Led by City Council, Denver adopts the Medical Marijuana Code, an ordinance for the regulation and licensing of medical marijuana businesses.

2012
Colorado voters approve Amendment 64, decriminalizing adult possession of up to 1 ounce of marijuana and establishing a regulated and licensed commercial marijuana distribution system.
Voter Results: Colorado 55%-45%; Denver 66%-34%

2013
Led by City Council, Denver adopted the Retail Marijuana Code, an ordinance for regulation and licensing of retail marijuana businesses. Denver voters approve a floating special sales tax on retail marijuana, originally set at 3.5%.

2014
Retail sales of marijuana begin in Denver.

2016
Denver voters approve Initiative 300, an ordinance that allows for the social use of marijuana in designated consumption areas.
Voter Results: Denver 54%-46%

2017
Adopted rules governing Marijuana Designated Consumption Areas.

2018
The first licensed Marijuana Consumption Establishment opens in Denver.

2019
Denver Creates the Cannabis Equity and Social Justice project with "Turn Over a new Leaf" to clear low-level marijuana convictions.

2020
Denver released the first ever first Cannabis Business and Opportunity Study to determine the current demographics of the marijuana industry and barriers preventing a more equitable marketplace.

WHERE ARE WE NOW?

As legalization spreads across the United States, Denver remains squarely in focus. More than ever, the city is looked at to provide guidance on how it effectively implemented and continues to manage the first-of-its-kind sales and commercialization of voter-approved retail marijuana.

Through a far-reaching, collaborative approach, Denver's Office of Marijuana Policy, housed in Denver's Department of Excise and Licenses, supports and coordinates the work of dozens of city employees. The city's dedicated team of experts manage a complex and ever-changing regulatory and licensing process. This work includes legislation to create, improve and clarify ordinances, management of education and health initiatives, social equity, coordination of enforcement efforts, and allocation of enough resources – all in concert with the industry and the community.

In 2019, Denver marked the sixth year of retail sales of marijuana and the sixth year of the Office of Marijuana Policy's operation. Industry growth continues with more than 1,100 business licenses operating out of nearly 500 locations.

More recently, Denver has been developing a multi-pronged approach to ensuring that communities that have been disproportionately impacted by marijuana prohibition can benefit from the legalization of marijuana. Mayor Hancock's Cannabis Social Equity work involves exploring a variety of tactics including the continued use of marijuana tax revenue to support low and moderate-income neighborhoods, obtaining data related to the marijuana industry, vacating low-level marijuana convictions and identifying areas of need in workforce development and licensing ownership and entrepreneurship.

Denver continues its collaborative approach to marijuana management, remaining nimble and flexible to keep pace with the sustained growth of sales and innovation in the marijuana industry, while remaining in constant communication with the industry and residents to ensure balance among many competing interests.

II. INDUSTRY

DENVER'S MARIJUANA INDUSTRY

The City of Denver actively coordinates with its departments and agencies, business owners, residents, neighborhood groups and industry representatives to ensure that it has a robust and effective regulatory system for the city's marijuana industry.

There are fourteen types of marijuana business licenses issued by the City of Denver as of January 1, 2020:

- **Medical/Retail Storefront**
- **Medical/Retail Cultivation**
- **Medical/Retail Infused Product Manufacturer (MIP)**
- **Medical/Retail Testing Facility**
- **Medical/Retail Transporter**
- **Medical/Retail Off-premises Storage**
- **Cannabis Consumption Establishment/Special Event**

NUMBER OF ACTIVE LICENSED MARIJUANA BUSINESSES FROM JAN 2014 TO JAN 2020:

PERIOD	MEDICAL LICENSES	RETAIL LICENSES	UNIQUE
January 2014	731	270	455
January 2015	621	301	414
January 2016	657	392	454
January 2017	682	429	481
January 2018	671	478	492
January 2019	621	479	475
January 2020	474	474	452

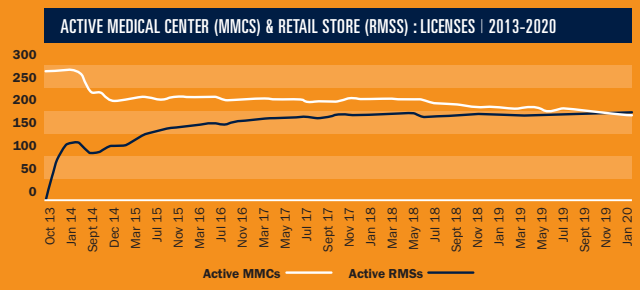
** The decrease from 2014 to 2015 in medical marijuana licenses happened in part because medical marijuana businesses that did not obtain both state and city licenses by July 1, 2014 were required to cease operations.*

** The decrease in medical licenses from 2019 to 2020 happened as a result of the state collapsing one medical license per location.*

NUMBER OF ACTIVE LICENSES BY TYPE OVER TIME:

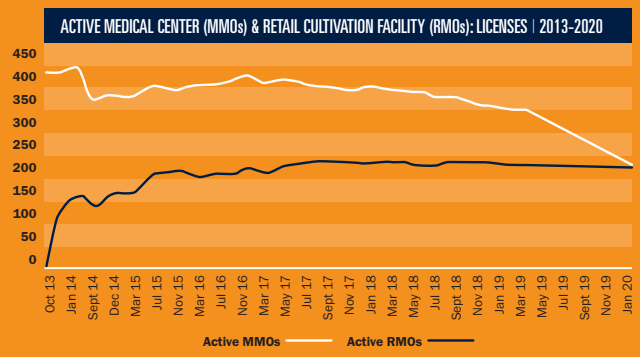
Active Medical Center (MMC) licenses were down -9% from 184 in January 2019 to 167 in January 2020.

Active Retail Store (RMS) licenses increased by 2%, from 167 in January 2019 to 170 in January 2020.

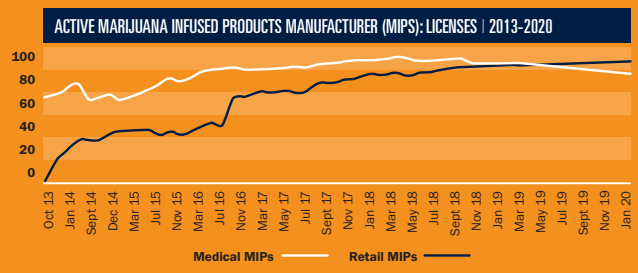


The number of active Medical Optional Premises Cultivation licenses declined -36% from the prior year, down to 214 in January 2020 from 336 in January 2019. This is a result of state law allowing only one medical license per location.

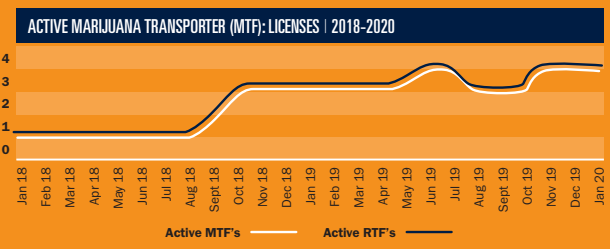
During that same time frame, active Retail Cultivation Facility licenses decreased -7% from 2019 – going from 215 in January 2019 down to 199 in January 2020.



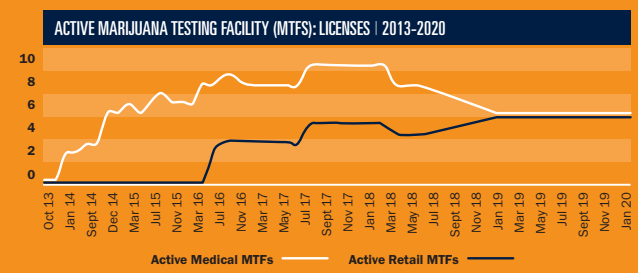
Medical Marijuana Infused Products Manufacturer licenses declined 10% during the same time frame, going from 93 in January 2019 to 84 as of January 2020. Active Licenses for Retail Marijuana Infused Products Manufacturers increased 8% over the prior year, going from 89 in January 2019 to 96 in January 2020.



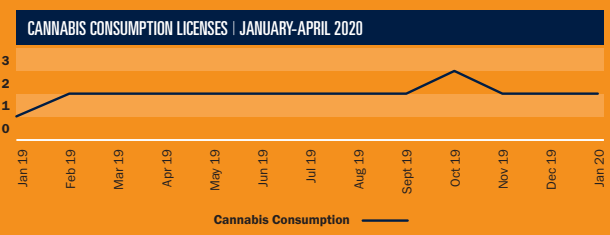
As of January 2020, the City had 4 active Medical Marijuana Transporter licenses and 4 active Retail Marijuana Transporter licenses. Both Medical & Retail Marijuana Transporter licenses increased 33%, going from 3 in January 2019 to 4 in January 2020.



Active licenses for both Medical and Retail Marijuana Testing Facility licenses were unchanged from 5 in January 2019 to 5 in January 2020.



As of January 2020, the City had 2 active Cannabis Consumption licenses. This is up 100% over the single Cannabis Consumption license that was active as of January 2019.



HOW IS MARIJUANA TAXED IN DENVER?

Medical marijuana is subject to standard state and local sales taxes:

Denver Standard Sales Tax*:	4.31%
State Standard Sales Tax:	2.90%
Medical Marijuana Sales Tax:	**7.21%**

**The Denver Preschool Fund directly receives .15% of the city's 3.65% overall standard sales tax. In November 2018, four ballot initiatives were approved by the voters of Denver to increase the standard sales tax rate by a combined total of .66%. All four measures went into effect January 1, 2019 and included sales tax increases for Parks (.25%), Mental Health (.25%), College Affordability (.08%), and Healthy Food (.08%).*

In November 2013, Denver voters approved adding a special sales tax on retail marijuana that could vary from 3.5 to 15.0%. The tax is in addition to standard sales tax and all other applicable state taxes. Since 7/1/17, retail marijuana is exempt from the state standard sales tax, but is subject to both state and local special sales taxes:

Denver Standard Sales Tax*:	4.31%
Denver Special Sales Tax on Retail Marijuana**:	5.50%
State Special Sales Tax on Retail Marijuana***:	15.0%
Retail Marijuana Sales Tax:	**24.81%**

***The Denver Special Sales Tax can increase from 3.5 to 15% when authorized by City Council. In October 2018, there was an increase on the special sales tax from 3.5 to 5.5% to contribute funds towards the city's affordable housing project.*

****Prior to 7/1/17, 15% of the State Special Sales Tax was shared with local jurisdictions. Since 7/1/17, 10% of the State Special Sales Tax has been shared with local jurisdictions.*

MARIJUANA SALES

Denver: Retail Marijuana sales in Denver increased 11% year over year from 2018. Medical Marijuana sales in Denver experienced a 1% decline during the same period.

Colorado: Retail Marijuana Sales in Colorado increased by 15% from 2018 to 2019. Medical Marijuana Sales for the State of Colorado increased slightly by 2% over the same period.

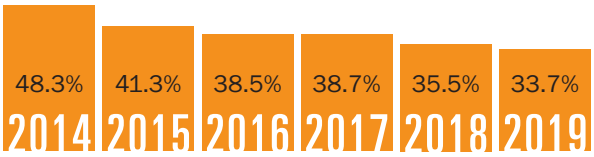
Note: 2014 and 2015 values for Colorado marijuana sales published in previous reports have since updated with current Treasury data.

DENVER MARIJUANA SALES	2014	2015	2016	2017	2018	2019
RETAIL	$149.7M	$219.3M	$291.5M	$377.5M	$392.5M	$434.9M
MEDICAL	$180.1M	$191.4M	$212M	$206.4M	$155.5M	$153.6M
TOTAL	**$329.8M**	**$410.7M**	**$503.5M**	**$584M**	**$548M**	**$588.5M**
TOTAL YOY% CHANGE	–	25%	23%	16%	-6%	7%

COLORADO MARIJUANA SALES	2014	2015	2016	2017	2018	2019
RETAIL	$303.2M	$577.5M	$861.6M	$1.1B	$1.2B	$1.4B
MEDICAL	$380.3M	$418.1M	$445.6M	$416.5M	$332.2M	$338.5M
TOTAL	**$683.5M**	**$995.6M**	**$1.3B**	**$1.5B**	**$1.5B**	**$1.7B**
TOTAL YOY% CHANGE	–	46%	31%	15%	3%	13%

HOW MUCH OF COLORADO'S TOTAL MARIJUANA SALES COME FROM DENVER?

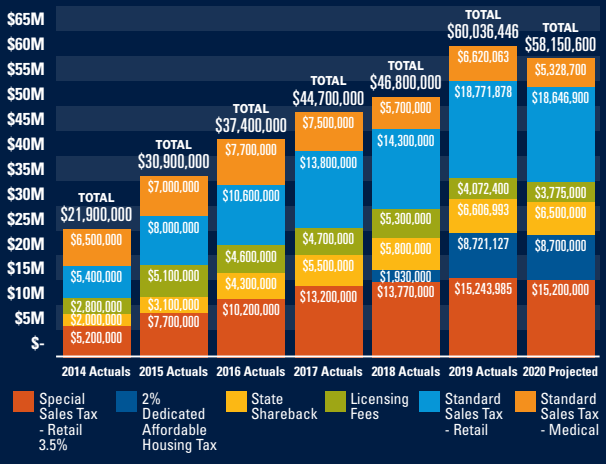
The following results are total Denver marijuana sales / total Colorado marijuana sales. From 2014 – 2019, Denver's portion of Colorado marijuana sales has declined by 15%, from 48.3% in 2014 to 33.7% in 2019. This indicates marijuana sales increased outside of Denver (at a higher rate than occurred within Denver) during the 2014 - 2019 period.



HOW MUCH REVENUE IS GENERATED IN DENVER FROM MARIJUANA?

Marijuana is helping to pay for the resources the city must put toward the robust regulation and enforcement involved with the responsible implementation of legalized marijuana.

However, it's important to understand that marijuana revenue constituted about 4.3% of the city's general fund revenue in 2019.



Total General Fund Revenue/Marijuana Revenue as a % of General Fund Revenue

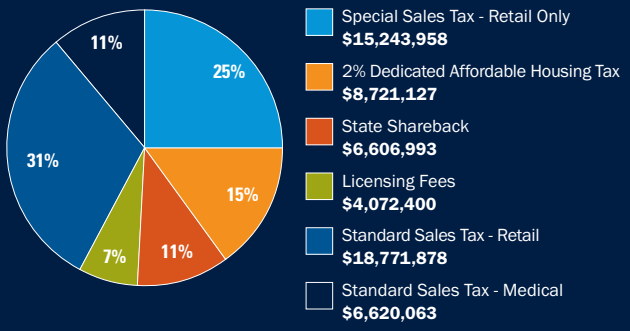
2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals	2019 Actuals	2020 Projected
$1,124,674,402	$1,204,306,900	$1,238,208,804	$1,309,418,915	$1,343,348,264	$1,406,061,854	$1,485,509,355
1.95%	2.57%	3.02%	3.41%	3.5%	4.3%	3.9%

**2020 revenue projections are based on 2018 and 2019 actuals and other revenue forecasting tools available in the Fall of 2019 during the development of the 2020 budget. 2020 projections will be updated for the 2021 budget process based on more recent revenue information.*

** "Shareback": The State of Colorado contributes a portion of its 15% special sales tax on retail marijuana back to the City of Denver and other local Colorado jurisdictions with retail marijuana sales*

- Overall 2019 Revenue from Marijuana in Denver increased 28% over 2018.
- State Shareback revenue in 2019 was up 14% over 2018.
- 2019 revenue from Licensing Fees decreased 23% from 2018.
- Medical Sales Tax revenue was up 16% in 2019, compared to 2018.
- Retail Sales Tax revenue increased 31% in 2019, compared to 2018.
- Retail Special Tax revenue went up 11% in 2019, compared to 2018.

MARIJUANA REVENUE SOURCES FOR 2019 TOTAL: $60M



Through the special sales tax revenue and state shareback funds, the city has funded marijuana regulation, enforcement, and education.

- These funds go into the city's general fund and are allocated toward Denver's immediate needs to responsibly regulate the marijuana industry, enforce the law, and educate the public about marijuana with a focus on youth.
- The licensing fees and retail standard sales tax collected go into the city's general fund to pay for city services, as is the case with medical marijuana taxes collected.
- In October 2018, the special sales tax for retail marijuana was increased by 2%, from 3.5% to 5.5%. This additional 2% is dedicated to affordable housing programs and is projected to generate $8.7 million in 2020.

IV. BUDGET

WHAT DOES THE CITY DO WITH THAT REVENUE?

All of Denver's marijuana-related revenue goes to the city's general fund to pay for city services. The city first allocates the special retail sales tax and state shareback to fund the key areas of:

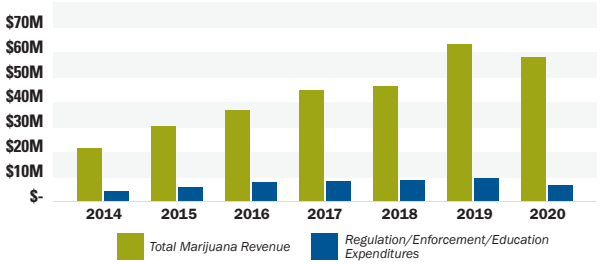
- **Regulation**
- **Education**
- **Enforcement**

Of the projected $21.7 million that can be appropriated for marijuana-specific spending in 2020, the city has budgeted **$7.4 million** in expenditures across city departments and agencies for regulation, enforcement, and education efforts.

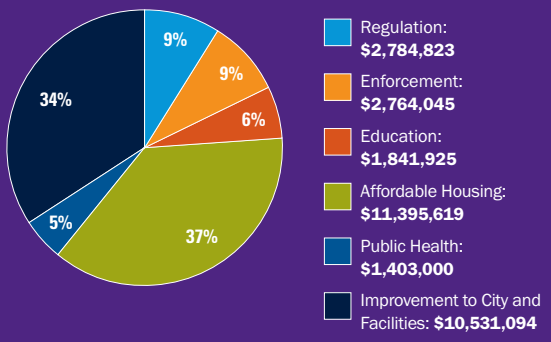
Additionally, in 2020, $23.4 million from marijuana-related revenue was appropriated to add investments for deferred maintenance, affordable housing, opioid intervention and other one-time equipment costs.

Finally, the standard sales tax received from retail and medical marijuana and the revenue from marijuana licensing fees ($27 million in 2019) is treated the same as the city's other sales tax revenue sources (such as clothing and other goods) in that it goes into the general fund and is spread across the city for a variety of general operating needs (libraries, parks, recreation programs, street maintenance, auditors, attorneys, etc.).

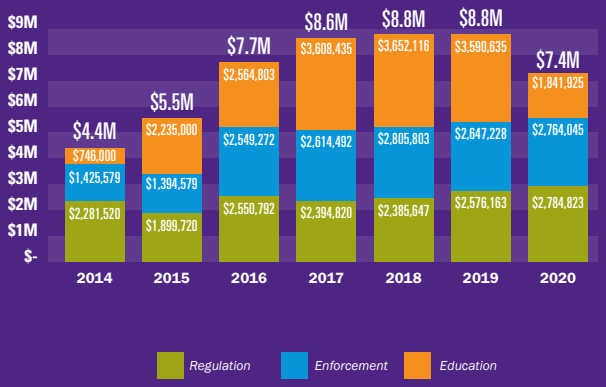
GENERAL FUND REVENUE AFTER REGULATION, ENFORCEMENT, EDUCATION



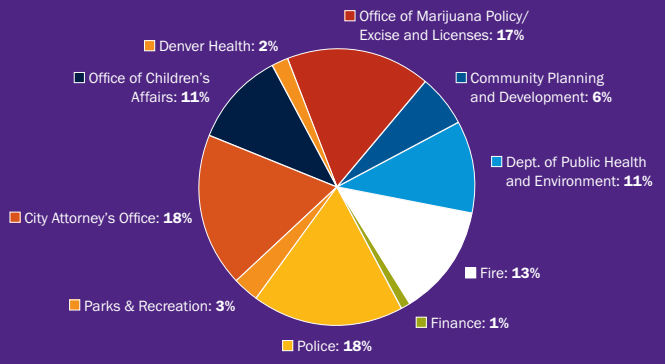
2020 RETAIL MARIJUANA SPECIAL SALES TAX AND STATE SHAREBACK ALLOCATION



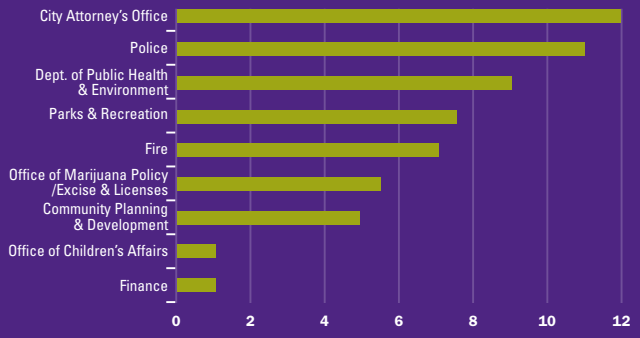
REGULATION, ENFORCEMENT, AND EDUCATION EXPENDITURES:



2020 DISTRIBUTION OF MARIJUANA REGULATION, ENFORCEMENT, AND EDUCATION COSTS BY DEPARTMENT:



2020 BUDGETED MARIJUANA-RELATED FTES



MARIJUANA EQUITY AND SOCIAL JUSTICE

EQUITY THROUGH MARIJUANA TAX REVENUE.

All our work in Denver is done through a race and social justice lens, and the budgeting of cannabis tax dollars is no different. The Office of Marijuana Policy has made it a priority to ensure the equitable distribution of marijuana revenue, and from 2014 to 2019 we were able to:

- Dedicate a portion of marijuana taxes that helped Denver double the affordable housing fund from $15 million to $30 million to **build more than 6,000 units**, which supports housing for many people including those who have been economically disadvantaged due to the failed war on drugs.
- **$9.3 million** of the funds dedicated to affordable housing in 2019 are from Denver's special recreational marijuana tax.
- The City has dedicated more than **$10 million** from Denver's special sales tax on recreational marijuana to fund **free after-school and summer programs for youth**, with a focus on underserved communities. This education funding also includes support for diversion programs, with a focus on high-need areas in Denver.
- Marijuana tax dollars are helping to upgrade parks and recreation centers in Denver, including the opening of Denver's first truly urban style recreation center called the **Carla Madison Recreation Center** in 2018. Funding for this recreation center included **$3.2 million** from marijuana tax proceeds.

Other than committing marijuana tax dollars, through our multipronged approach to cannabis equity, we intend to:

- Decrease barriers to entry in the industry by exploring financial, technical, and business support.
- Create a workforce development tool for those interested in beginning a career in the marijuana industry that would allow for training and professional development.
- Promote criminal justice restitution through our Turn Over a New Leaf program.

LICENSING, OWNERSHIP AND WORKFORCE DEVELOPMENT

For decades, the war on drugs has significantly impacted our communities, with disproportionately harmful impacts on communities of color. The effects of prohibition and its consequences can negatively affect many aspects of a person's life, including employment, education, economic earning potential, qualification for government benefits and programs, and immigration status proceedings.

The challenge of today's post-legalized world is also our opportunity: the legalization of adult-use cannabis presents a chance to learn from the past and to create accountable mechanisms to achieve **shared prosperity**. We must now work together to foster more equitable access to participation in the cannabis industry, including promotion of ownership and stable employment opportunities.

To date, our team has **spoken with over 300 people**, including social justice advocates, marijuana industry owners and employees, and people who wish to enter into the cannabis industry. Our goal is to gather input on the City's long-term plan to support a social equity program.

TURN OVER A NEW LEAF MARIJUANA EXPUNGEMENT PROGRAM AND CLINICS

Turn Over a New Leaf is a program where Denverites can apply to vacate and seal low-level marijuana criminal convictions that happened in Denver before legalization. To date, we have received **538 applications**, which have resulted in **85 convictions being identified** as eligible for the program.

Denver held **five clinics** in different locations throughout the City. Criminal and immigration volunteer attorneys were present to assist attendees. Our team **went to the City and County Jail five times** in 2019 to guarantee that the incarcerated population has access to this resource. We continue to schedule future visits.

We **invested more than $25,000** in City resources to create the program, staff clinics, and promote the program through community outreach, media relations and digital communications.

THE DENVER COLLABORATIVE APPROACH IN ACTION

Governments across the U.S. and the world are tackling – or are preparing for – the new and evolving challenges that come with the regulation of legalized marijuana. On the leading edge of this challenge, Denver is committed to ensuring that its regulations address both current and future issues.

Change continues in Denver and Colorado at a rapid pace and the collaborative approach enables the city to respond quickly and effectively to address issues as they arise.

Denver partners with city agencies, departments, institutional stakeholders, and the community to develop sensible policies which balance the needs of industry, consumers, families, and neighborhoods and preserve Denver's quality of life, public health, and safety.

Under the leadership of Mayor Hancock, the city has adopted a collaborative model to manage marijuana, which includes multiple agencies working together to preserve, protect, and enhance Denver's excellent **quality of life**. This work is grounded in the city's priorities of marijuana management, including **robust regulation**, **strict enforcement**, and **effective education**.

PUBLIC EDUCATION & COMMUNICATION

Youth Prevention & Education

Denver once again committed millions of retail marijuana sales tax dollars to be distributed to youth-serving organizations by the city's Offices of Children's Affairs and Behavioral Health.

MORE THAN

$16 MILLION of marijuana revenue from 2014-2019 has been granted to these important programs to protect and educate our youth.

The "Healthy Lifestyles for Youth" funds administered by Children's Affairs support quality afterschool and summer programs in over 50 organizations, supporting more than 10,000 youth.

- The funds leverage existing best practices and processes to enhance quality programs and promote pro-social activities to youth living in an environment with legalized marijuana.
- The funds utilize youth development programs as a place for early education and as a first step to preventing marijuana use.
- To help youth build the skills they need to make positive, healthy lifestyle choices, existing programs already using effective positive youth development and social-emotional learning strategies were provided additional funding to expand or enhance services.
- With that money Denver was also able to create a Marijuana Curriculum, designed to teach youth the different facts about marijuana and underage use. The curriculum is available at afterschool programs serving middle school students.

The Diversion Accountability and Behavioral Health funds administered by the Office of Behavioral Health Strategies provided seven programs with funds for intervention, treatment, education and other alternatives for approximately 4,321 youth and young adults who have violated a city or state law or school code in 2019. **The funds help:**

- Create alternative consequences for unlawful marijuana use or possession.
- Prevent further involvement of youth and young adults in the justice system.
- Improve outcomes for youth through coordinated services.
- Reduce and address the potential harm of substance use.
- Promote sharing of best practices and other networking opportunities for youth serving professionals.

IN DECEMBER 2017, THE CITY AND COUNTY OF DENVER LAUNCHED THE HIGH COSTS CAMPAIGN FOR YOUTH AGES 12-17 to educate Denver youth about marijuana so they can make an informed decision not to use underage. The campaign is focused on providing facts and encouraging peer to peer conversation.

HIGH COSTS

WWW.THEHIGHCOSTS.COM

- To date, the High Costs campaign has garnered over 241 million media impressions, or views, including a feature on CBS This Morning. A recent survey showed that 75 percent of teens aware of the High Costs campaign said that its messaging discouraged them from using marijuana.
- The campaign can be found online at **TheHighCosts.com**.

Information & Outreach

- Sponsored a Denver Police radio campaign educating listeners about Denver marijuana laws, responsible consumption and safe storage.
- Continued collaboration with the State of Colorado's education campaigns and continued to serve on the state's Marijuana Education Oversight Committee.
- Updated Denvergov.org/MarijuanaInfo website
  - Made various "Know the Law" updates and created a hub for all state and local laws and regulations.
- Attended community meetings of all stripes, including:
  - Registered Neighborhood Organization meetings
  - City Council district gatherings
  - Inter-Neighborhood Cooperation committee meetings
  - Other community meetings

PUBLIC EDUCATION & COMMUNICATION CONTINUED

Collaboration & Communication

- Participated in Mayor Hancock's quarterly Cabinet in the Community.
- Continued to present updates to the Downtown Denver Partnership, Visit Denver, the Denver Chamber of Commerce and other groups upon request.
- Continued conference calls with other states that have legalized marijuana.
- Continued to host information briefings for other jurisdictions, states and countries requesting information on how Denver regulates marijuana.
- Supported the "Policy and Practice Summit" sponsored by the Denver Afterschool Alliance.
- Met with neighborhood groups, SMART Colorado, nonprofits and other entities requesting information about marijuana.
- Coordinated with Denver Health on collecting data related to marijuana public health impacts.
- Continued to participate in the Denver Partnership for Youth Success working group.
- Created the Equity Governance Work Group and the Community Cannabis Equity and Social Justice Committee.

Industry Outreach

- Continued to educate the industry through regular Marijuana Informational Bulletins on new and changing regulations.
- Assisted as needed with other efforts including Denver Department of Public Health and Environment's Cannabis Sustainability Newsletter and best practices manual.
- Held quarterly check-in meetings with the marijuana industry.
- Held special meetings, as needed, on educational topics or for input on policies, procedures and regulations.
  - Invited industry members to participate in the Community Cannabis Equity and Social Justice Committee.
  - Invited industry members periodically to attend internal meetings to brainstorm, report out, and provide an industry viewpoint.
- Attended industry association meetings of the Marijuana Industry Group, Cannabis Business Alliance, and Colorado Cannabis Chamber of Commerce.

- Attended industry-sponsored educational events, tours and briefings.
- Continued the Permitting Assistance Team to help businesses navigate social consumption rules and regulations.

Customer Service

- The city continues to develop and publish marijuana informational dashboards that live on the Denver Marijuana Info website.
- Analyzed 311 inquiries to identify frequently asked questions and provide answers.
- Created the option for scheduled appointments for marijuana licensing transactions.

Resource Analysis, Efficiency & Economic Impact

- Continued to ensure that marijuana funds are allocated effectively to different city departments.
- Participated in an Indirect Cost Analysis to identify and quantify the indirect costs of marijuana regulation and enforcement incurred throughout the city.
- Created a mechanism to obtain feedback from internal agencies regarding operational efficiencies, effectiveness of policies, and the quality of the decision-making model.

DENVER MARIJUANA MANAGEMENT SYMPOSIUM

- In 2019 Denver hosted the fourth annual Marijuana Management Symposium to share information with regulators and policymakers from around the world.
- The event spanned two and a half days and hosted 356 attendees and 61 speakers from 3 countries, 17 U.S. states and the District of Columbia. The symposium has become the centerpiece of Denver's collaboration with other governments as the city has become a model for those who are adjusting to newly legalized marijuana or facing the possibility of future legalization.
- The city is committed to exchanging information and best practices with others to contribute to the public good, build better communities and develop common ground for the future.



THE LEADER IN CONSUMER HEALTH & SAFETY PROTECTION

Denver's Department of Public Health and Environment (DDPHE) continues to address consumer safety issues with a focus on mold contamination, ingredients lacking safety information used in smoking and vaping products, and underregulated hemp-derived cannabidiol ingestible products sold for therapeutic or wellness purposes.

In the absence of state and federal public health regulations and guidelines for marijuana products, the city stands in the gap, looking out for its residents and visitors as well as protecting consumer health and safety.

Denver continues to coordinate with other local and state agencies and the marijuana industry to identify potentially harmful marijuana products and place them on hold and/or recall them when necessary.

- In 2019, DDPHE conducted 27 cannabis investigations that resulted in four business recalls.
- Denver has conducted 43 recalls to date in the cannabis program which were due to mold and/or pesticide contamination, unapproved source issues, or shelf stability concerns.



DDPHE collaborated with the Cannabis Health & Safety Advisory Committee to develop an assessment of contaminants in recreational marijuana products sold in Denver and then carried out this assessment in the latter half of 2019.

- The goal of this assessment was to better understand the degree to which contaminants, specifically pesticides and molds, are present in regulated recreational marijuana products sold in the City and County of Denver.
- Although results have yet to be published, preliminary results from the assessment indicate that products sold can be contaminated with molds without dispensary employees' and consumers' awareness. The results from this assessment have many public health, policy, and regulation implications.
- Due to the ongoing COVID pandemic, DDPHE has not yet published results finding from the 2019 baseline assessment.
- The baseline assessment consisted of 25 retail marijuana stores identified to assess contaminants in products on store shelves. DDPHE worked with epidemiological partners at Denver Public Heath to create the assessment methodology. Participating stores were randomly identified for inclusion in the assessment. Current METRC inventory lists were pulled for each store with assistance from the Colorado Marijuana Enforcement Division and were used to randomly identify samples of flower, trim/shake, and pre-rolls. Each sample was tested for pesticides and total yeast and mold by state- and ISO-certified marijuana testing facilities. Results of their respective testing were shared with each facility and will also be shared broadly within a write-up of results at a later date.

Any comments or questions about this assessment can be emailed to phicomments@denvergov.org.

VI. ENFORCEMENT

PATROLLING THE BOUNDARIES OF LAW

Since the legalization of recreational marijuana in 2012, the illegal production and sale of marijuana has continued in Denver. In the first few years, the city experienced a large increase in black market marijuana. Through increased enforcement and collaboration between all city agencies, the City of Denver was able to mitigate many of the issues leading to the increase in black market marijuana. The Denver Police Department remains committed to enforcing all state and local laws pertaining to the illegal production and sale of marijuana.

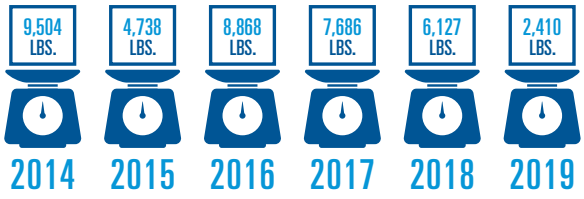
WHAT DOES THE BLACK MARKET LOOK LIKE?

The market for Denver marijuana is very lucrative and extends across the United States. The market takes many forms:

- Internet sales (Craigslist, Facebook groups, etc.)
- Mid-level trading: Continuous market of people purchasing $5,000-$10,000 of Colorado marijuana and transporting/shipping it out of state for resale.
- Large criminal organizations

The city has intensified its focus on those who refuse to play by the rules with increased education and enforcement.

ILLEGAL MARIJUANA PROCESSED BY THE DENVER POLICE DEPARTMENT (DPD) CRIME LAB:



This data only reflects seizures processed through the Denver Police Department crime lab.

- DPD's marijuana team has been involved in numerous operations where marijuana seized was processed by the Drug Enforcement Agency. Those numbers are not reflected here.
  - For example, in 2013, DPD worked with federal agencies and seized more than 10,000 pounds, in one case alone, all of which was processed by the DEA.

POLICE OUTREACH

DPD has worked proactively with marijuana business owners to provide them with crime fighting tips and share best practices with and among marijuana businesses.

- In 2019, DPD continued the district outreach program which allows industry members to meet the commander and officers in their district.
- DPD continued to educate the industry with Crime Prevention Through Environmental Design (CPTED), which provides crime fighting and safety tips.

HOME GROWS

Denver residents can cultivate up to six plants per adult in a household and never more than 12 plants total. Additionally, Denver created a limitation of 36 plants on a non-residential zone lot. Over the last several years, the city has received many complaints of home growing that exceeds the legal plant count.

The city is addressing these issues with:

- Streamlined communication processes between police and city inspectors to help address complaints.
- Increased number of officers working to address illegal home grows.
- Developed an education campaign on home grow safety and how to spot illegal activity.

MARIJUANA CRIME & ARREST DATA

1. Total Marijuana Offenses

Definition: Reported offenses to the Denver Police Department that, upon review, have a clear connection or relation to marijuana. Please contact the Denver Police Department if you have questions about the data reported in this section. Total marijuana offenses accounts for less than 1 percent of overall reported offenses in Denver.

YEAR	MARIJUANA CULTIVATION	MARIJUANA POSSESSION	MARIJUANA DISTRIBUTION	INDUSTRY RELATED CRIME*
2014	19	356	65	175
2015	25	272	60	185
2016	43	189	67	210
2017	52	145	87	139
2018	59	142	71	200
2019	32	77	39	213

YEAR	OTHER NON-INDUSTRY RELATED CRIME**	DUID MARIJUANA	TOTAL MARIJUANA OFFENSES	TOTAL CITYWIDE OFFENSES
2014	107	66	788	61,276
2015	81	73	696	64,317
2016	64	63	636	65,368
2017	62	63	548	66,354
2018	24	92	588	66,023
2019	25	97	483	65,470

The offenses listed in the table above exclude public consumption of marijuana, marijuana prohibited in parks and marijuana on the 16th Street Mall.

** Industry Related Crime entails reported criminal offenses where marijuana businesses were either the victim or the perpetrator of a crime. Approximately 77% of these crimes were burglaries or larcenies that occurred at licensed marijuana businesses.*

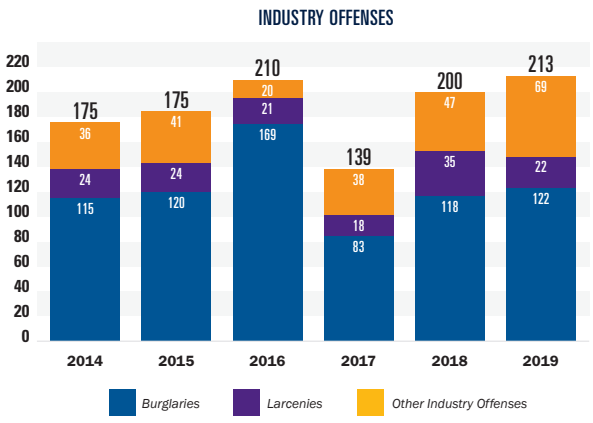
*** Other Non-Industry Related Crime entails reported criminal offenses that are not direct violations of marijuana law and do not have a clear connection to a licensed business, yet marijuana is believed to be the motive for the crime. For example, if someone is growing four marijuana plants in their garage for personal use, and someone breaks into the garage to steal the marijuana plants, that would be considered other non-industry related crime.*

2. Marijuana Industry Related Offenses

Definition: The subset of Marijuana Related Offenses where licensed marijuana businesses were either the victim or the perpetrator of a crime. Marijuana Industry Related Offenses represents less than ½ of 1 percent of overall crime in Denver. In 2019, burglary or attempted burglary accounted for 57% of Marijuana Industry-Related Offenses. Larceny (theft) accounted for another 10% of all Marijuana Industry-Related Offenses.

- **2014:** 175 (0.29%)
- **2015:** 185 (0.29%)
- **2016:** 210 (0.32%)
- **2017:** 139 (0.20%)
- **2018:** 200 (0.30%)
- **2019:** 213 (0.30%)

In 2019, burglary or attempted burglary accounted for 57% of Marijuana Industry-Related Offenses. Larceny (theft) accounted for another 10% of all Marijuana Industry-Related Offenses.



Violent Offenses related to the licensed marijuana industry is rare, with 7 reported in 2013, 8 reported in 2014, 8 reported in 2015, 3 reported in 2016, 6 reported in 2017, 7 reported in 2018 and 22 reported in 2019.

- Note: Violent Offenses includes homicide, rape, robbery, and aggravated assault.
- There were 22 violent offenses related to the marijuana industry in 2019, or one violent offense related to the marijuana industry for every 244 violent offenses overall.
- Marijuana businesses make up less than 1% of all businesses in Denver but account for approximately 10% of all reported business burglaries.

3. Arrests

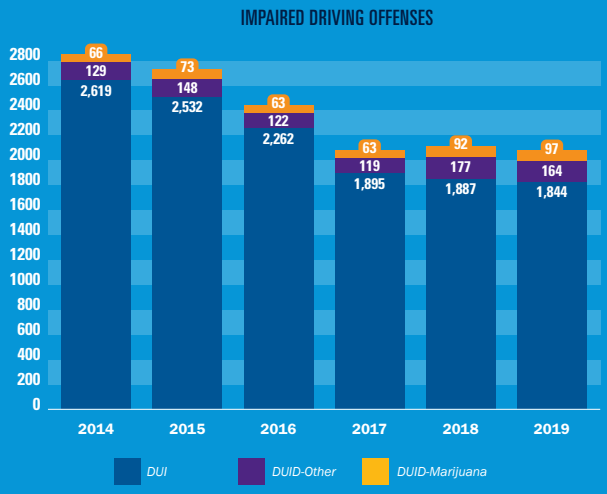
Definition: City and County of Denver arrest data include citations and bookings for violations of marijuana laws in State of Colorado statute and/or City of Denver municipal code. There may be multiple arrests/ citations per reported incident. A citation is a ticket to appear in court and an arrest is when a person is placed in custody.

VIOLATION DESCRIPTION	2018	2019	CHANGE	%
UNLAWFUL EXTRACTION OF MARIJUANA CONCENTRATE	31	4	-27	-87%
UNLAWFUL DISTRIBUTION OF MARIJUANA	283	131	-152	-54%
UNLAWFUL CULTIVATION OF MARIJUANA	181	80	-101	-56%
UNLAWFUL POSSESSION OF MARIJUANA	395	286	-109	-28%
UNLAWFUL PUBLIC DISPLAY / CONSUMPTION OF MARIJUANA	388	167	-221	-57%
MARIJUANA PROHIBITED IN PARKS	122	41	-81	-66%
MARIJUANA BUSINESS LICENSE VIOLATIONS	14	7	-7	-50%
GRAND TOTAL	1414	716	-698	-49%
TOTAL NUMBER OF ARRESTEES PER INCIDENT	1052	551	-501	-48%

IMPAIRED DRIVING ARRESTS

Impaired driving creates a serious public safety hazard. Over the years, overall impaired driving arrests have been on the decline in Denver. This change can be attributed to several factors, including public education campaigns and the rising popularity of ride sharing services.

Marijuana-related DUID (driving under the influence of drugs) arrests have remained fairly consistent over the years, yet they remain a small portion of overall impaired driving arrests. It is important to note that the low volume of marijuana DUID arrests shown here is not indicative of the true frequency of impaired driving, but rather it reflects the difficulties of confirming marijuana-related impairment.



EMAIL

MarijuanaInfo@Denvergov.org

WEB

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DENVER

THE MILE HIGH CITY

Appendix E: House Bill 2: Cannabis Regulation Act

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REGULATION ACT; CREATING THE CANNABIS CONTROL DIVISION OF THE REGULATION AND LICENSING DEPARTMENT; PROVIDING POWERS AND DUTIES; SETTING LIMITATIONS ON SALES AND PURCHASES OF CANNABIS; PROVIDING FOR LICENSURE AND PERMITTING; TRANSFERRING LICENSING AUTHORITY UNDER THE LYNN AND ERIN COMPASSIONATE USE ACT TO THE CANNABIS CONTROL DIVISION; CREATING THE CANNABIS REGULATORY ADVISORY COMMITTEE; CREATING A FUND; AUTHORIZING THE REGULATION AND LICENSING DEPARTMENT TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH INDIAN NATIONS, TRIBES AND PUEBLOS; REQUIRING TRAINING FOR PERMITTEES; ENACTING THE CANNABIS TAX ACT; DISTRIBUTING A PORTION OF THE CANNABIS EXCISE TAX TO MUNICIPALITIES AND COUNTIES; REQUIRING REPORTING; PRESCRIBING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--Sections 1 through 42 of this act may be cited as the "Cannabis Regulation Act".

SECTION 2. DEFINITIONS.--As used in the Cannabis Regulation Act:

A. "advertisement":

(1) means a statement or a depiction that is intended to induce the purchase of cannabis products and that

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is displayed in printed material or on a sign or other outdoor display or presented in a radio, television or other media broadcast or in digital media; and

(2) does not include:

(a) a sign or outdoor display or other statement permanently affixed to a licensed premises that is intended to induce the sale of a cannabis product produced or sold on the premises;

(b) a label affixed to a cannabis product or the covering, wrapper or container of a cannabis product; or

(c) an editorial or other material printed in a publication when the publication of the editorial or material was not paid for by a licensee and was not intended to promote the sale of cannabis products by a particular brand or company;

B. "cannabis":

(1) means all parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include:

(a) the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or

(b) the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product;

C. "cannabis consumption area" means an area where cannabis products may be served and consumed;

D. "cannabis courier" means a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

E. "cannabis establishment" means:

(1) a cannabis testing laboratory;

(2) a cannabis manufacturer;

(3) a cannabis producer;

(4) a cannabis retailer;

(5) a cannabis research laboratory;

(6) a vertically integrated cannabis establishment;

(7) a cannabis producer microbusiness; or

(8) an integrated cannabis microbusiness;

F. "cannabis extract":

(1) means a product obtained by separating resins, tetrahydrocannabinols or other substances from cannabis by extraction methods approved by the division; and

(2) does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product;

G. "cannabis flowers" means only the flowers of a cannabis plant;

H. "cannabis manufacturer" means a person that:

(1) manufactures cannabis products;

(2) packages cannabis products;

(3) has cannabis products tested by a cannabis testing laboratory; or

(4) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments;

I. "cannabis producer" means a person that:

(1) cultivates cannabis plants;

(2) has unprocessed cannabis products tested by a cannabis testing laboratory;

(3) transports unprocessed cannabis products only to other cannabis establishments; or

(4) sells cannabis products wholesale;

J. "cannabis producer microbusiness" means a cannabis producer at a single licensed premises that

possesses no more than two hundred total mature cannabis plants at any one time;

K. "cannabis product" means a product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients;

L. "cannabis research laboratory" means a facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses;

M. "cannabis retailer" means a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

N. "cannabis server permit" means an authorization that allows a person to directly offer, sell or serve cannabis or cannabis products as part of commercial cannabis activity in a cannabis consumption area;

O. "cannabis server permit education provider" means a person that provides cannabis server education courses and examinations;

P. "cannabis testing laboratory" means a person that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing;

Q. "cannabis training and education program" means a practical or academic curriculum offered by a New Mexico public post-secondary educational institution designed to

prepare students for participation in the cannabis industry;

R. "commercial cannabis activity":

(1) means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and

(2) does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis;

S. "consumer" means a person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale;

T. "contaminant" means pesticides and other foreign material, such as hair, insects or other similar adulterants, in harvested cannabis;

U. "controlling person":

(1) means a person that controls a financial or voting interest of ten percent or more of, or an officer or board member of, a cannabis establishment; and

(2) does not include a bank or licensed lending institution;

V. "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis;

W. "department" means the regulation and licensing department;

X. "director" means the director of the division;

Y. "division" means the cannabis control division of the department;

Z. "dry weight basis", when used in the context of regulation of commercial cannabis activity, means a process by which delta-9-tetrahydrocannabinol concentration is measured relative to the aggregate weight of all parts of the plant genus Cannabis, whether growing or not, including the leaves of the plant, the flowers and buds of the plant, the seeds of the plant, the resin of the plant and the stalks of the plant at the point of harvest by a licensee and with no moisture added to the harvested plant;

AA. "facility" means a building, space or grounds licensed for the production, possession, testing, manufacturing or distribution of cannabis, cannabis extracts or cannabis products;

BB. "financial consideration" means value that is given or received, directly or indirectly, through sales, barter, trade, fees, charges, dues, contributions or donations;

CC. "homegrown" or "homemade" means grown or made for purposes that are not dependent or conditioned upon the provision or receipt of financial consideration;

DD. "household" means a housing unit and includes any place in or around the housing unit at which an occupant of the housing unit produces, manufactures, keeps or stores homegrown cannabis or homemade cannabis products;

EE. "immature cannabis plant" means a cannabis plant that has no observable flowers or buds;

FF. "industry standards" means the prevailing customary standards of business practice in the cannabis industry in jurisdictions within the United States;

GG. "integrated cannabis microbusiness" means a person that is authorized to conduct one or more of the following:

(1) production of cannabis at a single licensed premises; provided that the person shall not possess more than two hundred total mature cannabis plants at any one time;

(2) manufacture of cannabis products at a single licensed premises;

(3) sales and transportation of only cannabis products produced or manufactured by that person;

(4) operation of only one retail establishment; and

(5) couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

HH. "licensed premises" means a location that includes:

(1) all enclosed public and private areas at the location that are used in the business and includes offices, kitchens, restrooms and storerooms;

(2) all areas outside of a building that are specifically included in the license for the production, manufacturing, wholesale sale or retail sale of cannabis products; and

(3) with respect to a location that is specifically licensed for the production of cannabis outside of a building, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases or has a right to occupy;

II. "local jurisdiction" means a municipality, home rule municipality or county;

JJ. "manufacture" means to compound, blend, extract, infuse, package or otherwise prepare a cannabis product;

KK. "medical cannabis" means cannabis products used by a qualified patient or reciprocal participant in accordance with the Lynn and Erin Compassionate Use Act;

LL. "medical cannabis program" means the program created pursuant to the Lynn and Erin Compassionate Use Act;

MM. "medical cannabis registry" means the system

by which the department of health approves or denies applications and issues and renews registry identification cards for qualified patients;

NN. "primary caregiver" means a resident of New Mexico who is at least eighteen years of age and who is responsible for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act;

OO. "public place" means a place to which the general public has access and includes hallways, lobbies and other parts of apartment houses and hotels that do not constitute rooms or apartments designed for actual residence; highways; streets; schools; places of amusement; parks; playgrounds; and places used in connection with public passenger transportation;

PP. "qualified patient" means a resident of New Mexico who holds a registry identification card pursuant to the Lynn and Erin Compassionate Use Act;

QQ. "reciprocal participant" means a person who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory or commonwealth of the United States in which the person resides or a person who holds proof of enrollment by a

governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program;

RR. "retail establishment" means a location at which cannabis products are sold to qualified patients, primary caregivers and reciprocal participants and directly to consumers;

SS. "superintendent" means the superintendent of regulation and licensing;

TT. "unprocessed" means unaltered from an original, raw or natural state; and

UU. "vertically integrated cannabis establishment" means a person that is authorized to act as any of the following:

(1) a cannabis courier;

(2) a cannabis manufacturer;

(3) a cannabis producer; and

(4) a cannabis retailer.

SECTION 3. DIVISION--POWERS AND DUTIES--RULEMAKING--ADVISORY COMMITTEE CREATED--MEMBERSHIP--DUTIES.--

A. The "cannabis control division" is created in the department to administer the Cannabis Regulation Act and the licensing provisions of the Lynn and Erin Compassionate Use Act and rules promulgated in accordance with those acts. Rules shall be adopted and promulgated as provided in the

State Rules Act.

B. No later than January 1, 2022, the division shall promulgate rules that are consistent with industry standards necessary for the division to carry out its duties pursuant to the Cannabis Regulation Act as follows:

(1) qualifications and procedures for licensure; provided that qualifications shall be directly and demonstrably related to the operation of the applicable cannabis establishment;

(2) security requirements for a cannabis establishment;

(3) requirements related to:

(a) inspection and monitoring of a cannabis establishment;

(b) a cannabis establishment's recordkeeping and tracking of cannabis from seed until sale;

(c) prevention of the sale or diversion of cannabis products in commercial cannabis activity to a person under the age of twenty-one;

(d) labeling of cannabis products packaged, sold or distributed by a cannabis establishment; and

(e) language for labels of cannabis products regarding potential adverse effects;

(4) rules providing that:

(a) a person who is twenty-one years old or older shall not purchase more than two ounces of cannabis, sixteen grams of cannabis extract and eight hundred milligrams of edible cannabis at one time; and

(b) as to commercial cannabis activity: 1) a consumer shall not possess more than two ounces of cannabis, sixteen grams of cannabis extract and eight hundred milligrams of edible cannabis outside the consumer's private residence; 2) any cannabis in excess of the amounts described in Item 1) of this subparagraph shall be stored in the person's residence and shall not be visible from a public place; and 3) the division shall not limit the amount of tetrahydrocannabinol concentration in a cannabis product; provided that the division may adopt requirements for apportionment and packaging of cannabis products;

(5) rules on advertising and marketing of cannabis products;

(6) rules on how a licensee may display cannabis products for sale;

(7) procedures that promote and encourage full participation in the cannabis industry governed by the Cannabis Regulation Act by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy, rural communities likely to be impacted by cannabis

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production and agricultural producers from economically disadvantaged communities;

(8) procedures that promote and encourage racial, ethnic, gender and geographic diversity and New Mexico residency among license applicants, licensees and cannabis industry employees;

(9) rules for a certification process to identify cannabis products for consumers from integrated cannabis microbusinesses or cannabis producer microbusinesses or owned by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy and underserved communities that include tribal, acequia, land grant-merced and other rural historic communities;

(10) in consultation with the economic development department, development of a technical assistance resource guide for rural New Mexico residents who are seeking to establish vertically integrated cannabis establishments, cannabis producer microbusinesses or integrated cannabis microbusinesses;

(11) in consultation with the department of environment, rules to establish:

(a) health and safety standards applicable to the research, production and manufacture of cannabis products;

(b) standards for food and product safety applicable to cannabis products; and

(c) which additives are approved for and prohibited from inclusion in cannabis products; provided that nicotine shall be prohibited;

(12) in consultation with the New Mexico department of agriculture and the department of environment, rules to establish standards for quality control, inspection and testing of cannabis products for potency and contaminants, except for cannabis produced or harvested for research purposes and not for ingestion; provided that all such rules and standards shall be consistent with the rules and standards for testing of medical cannabis products; and

(13) in consultation with the state fire marshal's office of the homeland security and emergency management department, rules with regard to health and safety.

C. No later than January 1, 2022, the division shall promulgate rules that are consistent with industry standards relating to cannabis training and education programs, including:

(1) qualifications and procedures for licensure; and

(2) physical security, cybersecurity and, if applicable, security of information collected under the

federal Health Insurance Portability and Accountability Act of 1996 requirements.

D. No later than January 1, 2022, the division shall promulgate rules in consultation with the New Mexico department of agriculture, the department of environment and the office of the state engineer to establish:

(1) environmental protections; and

(2) protocols to ensure licensees' compliance with state and local laws and ordinances governing food and product safety, occupational health and safety, environmental impacts, natural resource protection, water use and quality, water supply, hazardous materials, pesticide use and wastewater discharge.

E. No later than January 1, 2022, the division shall adopt rules in consultation with the department of health to establish standards and determinations on requirements for reserving cannabis products for sale to qualified patients, primary caregivers and reciprocal participants.

F. The division shall collect and publish annually on the division's website, and present to the appropriate interim committee of the legislature, a report describing demographic data on license applicants, controlling persons and employees of cannabis establishments, including race, ethnicity, gender, age, residential status and whether the

applicants, persons, employees or the locations where the cannabis products are produced, manufactured, sold, tested or researched are located in an underserved rural community, including tribal, acequia, land grant-merced or other rural historic communities.

G. The "cannabis regulatory advisory committee" shall be created no later than September 1, 2021. The committee shall advise the division on the development of rules pursuant to the Cannabis Regulation Act, including best practices and the promotion of economic and cultural diversity in licensing and employment opportunities and protection of public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose unreasonable barriers that would perpetuate, rather than reduce and eliminate, the illicit market for cannabis. A person appointed to the cannabis regulatory advisory committee shall not hold any ownership interest or investment in a licensed person pursuant to the Cannabis Regulation Act; provided that the superintendent may appoint a person who holds an ownership interest in a licensed person as a nonvoting member. The committee shall consist of the following members:

(1) the chief public defender or the chief public defender's designee;

(2) a district attorney appointed by the New

Mexico district attorney association;

(3) a municipal police chief appointed by the New Mexico association of chiefs of police;

(4) a county sheriff appointed by the executive director of the New Mexico association of counties; and

(5) one member for each of the following groups or professional qualifications, appointed by the superintendent:

(a) a cannabis policy advocacy organization;

(b) a labor organization;

(c) a qualified patient;

(d) a state or local agency with relevant expertise as the director and the superintendent deem appropriate;

(e) an Indian nation, tribe or pueblo with relevant expertise as the director and the superintendent deem appropriate;

(f) expertise in public health;

(g) expertise in regulating commercial activity for adult-use intoxicating substances;

(h) expertise and experience in cannabis laboratory science;

(i) expertise in environmental science;

(j) expertise in small business development;

(k) expertise in water resources;

(l) expertise in other relevant areas as the director and the superintendent deem appropriate; and

(m) previous experience as a cannabis retailer, cannabis producer or cannabis manufacturer and who is a nonvoting member.

H. The cannabis regulatory advisory committee shall elect from among its members a chair and such other officers as it deems necessary. The committee shall meet at the call of the chair, the director or the superintendent. A majority of members currently serving constitutes a quorum for the conduct of business. Members shall serve at the pleasure of the superintendent.

I. Public voting members of the cannabis regulatory advisory committee are entitled to receive per diem and mileage as provided for state employees pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

J. The division shall:

(1) monitor the supply and demand of cannabis products produced in New Mexico by licensees and present annually to the appropriate interim committee of the legislature the impacts of supply on illicit cannabis

products markets and adequate supply of cannabis products for qualified patients and reciprocal participants;

(2) request the department of public safety to enforce the provisions of the Cannabis Regulation Act as deemed necessary; and

(3) undertake studies and conduct courses of instruction for division employees that will improve the operations of the division and advance its purposes.

SECTION 4. DEPARTMENT OF HEALTH--DUTIES--PUBLIC HEALTH AND SAFETY ADVISORY COMMITTEE.--

A. The department of health shall monitor emerging scientific and medical information relevant to the health effects associated with the use of cannabis products and shall monitor changes in cannabis product use, opioid use and alcohol use patterns for children and adults within the state, broken down by county, race and ethnicity.

B. No later than September 1, 2021, the secretary of health shall appoint a "public health and safety advisory committee" composed of no more than fifteen professionals with expertise related to cannabis products through work, training or research in public health, epidemiology, medicine, medical toxicology, poison control, road safety, occupational safety, environmental safety and emergency medicine.

C. Beginning December 1, 2024, the public health

and safety advisory committee shall provide to the legislature, and the department of health shall publish on its website, an annual report on the health effects of legalizing cannabis products for adult use. The report shall include the following elements relating to cannabis product use and, as applicable, the demographics of persons who are the subject of an element:

(1) child access;

(2) road safety and driving while impaired;

(3) workplace safety;

(4) the percentage of emergency room visits and outcomes;

(5) educational needs for children and adults;

(6) consumer and product safety;

(7) the percentage of poison control center calls; and

(8) the impact of cannabis use on rates of alcohol, opioid and other substance abuse.

D. In consultation with qualified patients and primary caregivers, the department of health shall publish an annual assessment report that shall include at a minimum an evaluation of the affordability and accessibility of medical cannabis.

E. Public members of the public health and safety

advisory committee are entitled to per diem and mileage as provided for state employees pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

SECTION 5. DEPARTMENT OF HEALTH--DUTIES--TRANSFER OF LICENSING DUTIES.--Except for administration of the medical cannabis registry, the power, duty and authority of the department of health related to the medical cannabis program shall be transferred to the division on the effective date of the Cannabis Regulation Act.

SECTION 6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR MEDICAL PROGRAM.--

A. The division shall regulate and administer and may collect fees in connection with the administration of:

(1) commercial cannabis activity and licensing related to commercial cannabis activity;

(2) the medical cannabis program, except for the medical cannabis registry; and

(3) all aspects of cannabis relating to cannabis training and education programs.

B. The division shall follow the provisions of the Uniform Licensing Act when licensing or permitting the following:

(1) cannabis consumption areas;

(2) cannabis couriers;

(3) cannabis manufacturers;

(4) cannabis producer microbusinesses;

(5) cannabis producers;

(6) cannabis research laboratories;

(7) cannabis retailers;

(8) cannabis servers;

(9) cannabis testing laboratories;

(10) cannabis training and education programs;

(11) integrated cannabis microbusinesses; and

(12) vertically integrated cannabis establishments.

C. The division shall include a clear designation on all licenses and permits that indicates whether the license or permit is for medical cannabis activity, commercial cannabis activity or both or for cannabis training and education programs.

D. The division shall issue a license to a cannabis retailer applicant at a discount if the applicant provides documentation of an agreement to accept cannabis products on consignment from a cannabis producer microbusiness or an integrated cannabis microbusiness licensed pursuant the Cannabis Regulation Act.

E. A license is valid for twelve months from the date the license is issued and may be renewed annually, except that a license issued for a cannabis training and education program is valid until terminated by the licensee or suspended or revoked by the division.

F. The director shall not renew a license issued pursuant to the provisions of the Cannabis Regulation Act until the director receives notification from the secretary of taxation and revenue or the secretary's designee that on a certain date:

(1) the licensee is not a delinquent taxpayer; and

(2) there are no unfiled tax returns due from engaging in business authorized by the license.

G. No license shall be transferable or assignable from a licensee to another person. The division shall not allow a person that is licensed as any type of cannabis establishment other than a cannabis research laboratory to hold, directly or indirectly, a cannabis testing laboratory license.

H. Except for verification of age, the division shall not require licensees to request information from consumers or impose any residency requirement upon consumers for the purchase of cannabis products pursuant to the commercial cannabis activity authorized by the Cannabis

Regulation Act. The division may require licensees to request information from consumers for the purchase of cannabis products pursuant to the medical cannabis program, which may include the presentation of legal identification issued by an authorized governmental entity or other documents as required by the medical cannabis program.

I. Except as otherwise provided in the Cannabis Regulation Act, the division shall not limit the number of licensed premises a licensee may occupy or operate under a license. Multiple licensees may occupy a single licensed premises, and the division shall not place any restriction or prohibition on the number of licensees occupying a single licensed premises or on the number of licensed premises of a cannabis establishment except as otherwise specifically provided for by the Cannabis Regulation Act. A licensee may conduct any lawful activity or any combination of lawful activities at a licensed premises; provided that the licensee is not a licensee pursuant to the Liquor Control Act. Smoking in a cannabis consumption area on a licensed premises shall be allowed only if the cannabis consumption area is in a designated smoking area or in a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act.

J. Licensees are specifically allowed to conduct

other licensed activities, including activities pursuant to the Hemp Manufacturing Act, except for sales of alcoholic beverages.

K. A person properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act on the effective date of the Cannabis Regulation Act may continue to operate under that license for medical cannabis until comparable licenses for commercial cannabis activity are available. The division shall determine when retail sales of commercial cannabis products begin, but no later than April 1, 2022. A facility of such a licensee, upon issuance of the applicable cannabis establishment license, shall constitute licensed premises of the licensee and the licensee shall be entitled to continued and uninterrupted operations of the licensed premises. As to activity under the medical cannabis program, the licensee shall continue to operate under rules promulgated for the medical cannabis program until the division promulgates rules for medical cannabis activity, except that a qualified patient, a primary caregiver and a reciprocal participant shall not be prohibited from purchasing and obtaining cannabis products pursuant to the medical cannabis program.

L. To address a shortage of cannabis supply in the medical cannabis program, the division may:

(1) require all cannabis establishment

licensees to ensure that at least ten percent of their cannabis in stock on a monthly basis is designated for sale to qualified patients, primary caregivers and reciprocal participants;

(2) initially take reasonable measures to expeditiously incentivize increased production of cannabis plants to remedy a shortage of cannabis supply in the medical cannabis program;

(3) after having first exhausted measures to increase production of cannabis plants to address the shortage of cannabis supply in the medical cannabis program, exclude commercial cannabis activity from the scope of new licenses issued to initial applicants for a vertically integrated cannabis establishment, cannabis producer, integrated cannabis microbusiness, cannabis producer microbusiness or cannabis manufacturer license, which limitation shall be in force for a period of at least six months; and

(4) require licensees who are licensed to produce cannabis to produce a specified quota of mature cannabis plants to be designated for use in the medical cannabis program; provided that:

(a) the division may require a licensee to devote no more than twenty-five percent of the licensee's cultivated cannabis plants on a monthly basis for use in the

medical cannabis program; and

(b) the division may require specific tracking of cannabis plants.

M. As used in this section, "shortage of cannabis supply in the medical cannabis program" means that the average number of cannabis plants in production in the medical cannabis program per qualified patient after the effective date of the Cannabis Regulation Act is substantially less than the average number of cannabis plants in production in the medical cannabis program per qualified patient as of the effective date of the Cannabis Regulation Act, where:

(1) the average number of cannabis plants in production after the effective date of the Cannabis Regulation Act is measured over a period of three consecutive months; and

(2) the average number of cannabis plants in production as of the effective date of the Cannabis Regulation Act is measured over a period of three consecutive months immediately preceding the effective date of the Cannabis Regulation Act.

N. A person who is a member of the New Mexico senate or the New Mexico house of representatives on the effective date of the Cannabis Regulation Act shall not apply for or be granted a license to engage in any commercial

cannabis activity prior to July 1, 2026.

SECTION 7. COMMERCIAL CANNABIS ACTIVITY LICENSING--APPLICATION--ISSUANCE AND DENIAL OF A LICENSE.--

A. A license issued pursuant to the Cannabis Regulation Act shall not be subject to execution, attachment, a security transaction, liens or receivership.

B. In carrying out its commercial cannabis activity licensing duties, the division shall:

(1) no later than September 1, 2021, accept and begin processing license applications for cannabis producers, cannabis producer microbusinesses and any person properly licensed and in good standing as a licensed cannabis producer pursuant to the Lynn and Erin Compassionate Use Act;

(2) no later than January 1, 2022, accept and begin processing license applications for all license types;

(3) require as a condition of licensing pursuant to the Cannabis Regulation Act that the applicant demonstrate that the applicant has a legal right to a commercial water supply, water rights or another source of water sufficient to meet the water needs as determined by the division related to the license as evidenced by documentation from the office of the state engineer of a valid water right or from a water provider that the use of water for cannabis production is compliant with that water provider's rules;

(4) if an applicant applies for a cannabis producer license or a cannabis manufacturer license, in addition to the requirements in Paragraph (3) of this subsection, require that the applicant submit a plan to use, or demonstrate to the division that the applicant cannot feasibly use, energy and water reduction opportunities, including:

(a) for a cannabis producer, drip irrigation and water collection;

(b) natural lighting and energy efficiency measures; and

(c) renewable energy generation; and

(5) allow commercial cannabis activity retail sales no later than April 1, 2022 and otherwise allow activities authorized by the Cannabis Regulation Act or the medical cannabis program as of the time of licensure of a licensee, so long as a minimum of twenty-five percent of monthly cannabis sales are to qualified patients, primary caregivers and reciprocal participants or sold wholesale to other licensees that meet or exceed the twenty-five percent sales to qualified patients, primary caregivers and reciprocal participants until December 31, 2022.

C. Once the division deems an application complete, the division has ninety days to issue or deny a license application.

D. The division shall deny an application for an initial license or renewal if:

(1) the application does not include information required by the division; or

(2) the applicant or a controlling person of the applicant has been convicted of an offense that is substantially related to the qualifications, functions or duties of the applicant's business; provided that if the division determines that the applicant or controlling person is otherwise qualified for a license and that issuing a license to the applicant would not compromise public safety, the division shall conduct a thorough review of the conviction, including the nature of the offense, surrounding circumstances and any evidence of the applicant's or controlling person's rehabilitation following the conviction, and based on that review, determine whether the applicant should be issued a license.

E. For purposes of Subsection D of this section, the following are considered substantially related to the qualifications, functions or duties of a person seeking a license:

(1) a felony conviction involving fraud, deceit or embezzlement;

(2) a felony conviction for hiring, employing or otherwise using a person younger than eighteen

years of age to:

(a) prepare for sale, transport or carry a controlled substance; or

(b) sell, give away or offer to sell a controlled substance to any person; and

(3) any other offense as determined by the division.

F. A conviction for which the related sentence, including any term of probation or parole, is completed for the possession, use, manufacture, distribution or dispensing or the possession with the intent to manufacture, distribute or dispense cannabis is not considered substantially related to the qualifications, functions or duties of a person seeking a license and shall not be the sole ground on which an application is denied. The division shall comply with the provisions of the Criminal Offender Employment Act.

G. The division shall deny an application if an applicant, a controlling person or the premises for which a license is sought does not qualify for licensure pursuant to the Cannabis Regulation Act.

H. The division shall not license a person who has had a license that was issued pursuant to the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act revoked by the division or the department of health in the three years immediately preceding the date on which the

person filed a new application.

I. Unless otherwise provided in the Cannabis Regulation Act, a person whose license has been revoked may reapply for a license after a period of three years. The division may consider all of the circumstances resulting in the revocation in determining whether to issue a new license.

J. The division shall adopt rules providing for submission of an applicant's fingerprints to the federal bureau of investigation to conduct a national criminal history background check and to the department of public safety to conduct a state criminal history check for the following licensees:

(1) cannabis manufacturer;

(2) cannabis producer;

(3) cannabis producer microbusiness;

(4) cannabis research laboratory;

(5) cannabis retailer;

(6) cannabis testing laboratory;

(7) integrated cannabis microbusiness; and

(8) vertically integrated cannabis establishment.

K. The division shall conduct national criminal history background checks and state criminal history checks on the following:

(1) if an applicant is a limited

partnership, each partner of the limited partnership;

(2) if the applicant is a limited liability company, each member of the limited liability company;

(3) if the applicant is a corporation, each director and officer of the corporation; and

(4) any controlling person of the applicant.

L. Arrest record information received from the federal bureau of investigation and the department of public safety shall be confidential, shall not be considered a public record pursuant to the Public Records Act and shall not be disclosed to persons not directly involved in the decision affecting the applicant.

M. Electronic live fingerprint scans may be used when conducting criminal history background checks.

SECTION 8. LICENSEES--DISCIPLINARY ACTIONS--SANCTIONS--CIVIL PENALTY.--

A. A violation of the provisions of the Cannabis Regulation Act by a licensee is grounds for disciplinary action.

B. The division may:

(1) impose an intermediate sanction established by rule;

(2) impose a directed plan of correction;

(3) assess a civil monetary penalty established by rule; provided that a civil monetary penalty

shall not exceed ten thousand dollars ($10,000) per violation; and provided further that penalties and interest recovered pursuant to the Cannabis Regulation Act on behalf of the state shall be remitted to the state treasurer for deposit in the current school fund; or

(4) suspend or revoke the license.

C. The division shall promulgate rules specifying the criteria for imposition of sanctions and civil monetary penalties.

D. The provisions of this section do not apply to occupational health and safety rules promulgated pursuant to Section 3 of the Cannabis Regulation Act.

E. A person aggrieved by an action taken by the division pursuant to this section may request and receive a hearing with the superintendent for the purpose of reviewing the action in accordance with the Uniform Licensing Act.

SECTION 9. APPLICATION AND LICENSING FEES.--

A. Every application for the issuance or renewal of the following licenses shall be accompanied by a license fee in the following specified amounts:

(1) a cannabis courier license, up to one thousand five hundred dollars ($1,500) per year and an additional fee of up to one thousand dollars ($1,000) per year for each additional licensed premises of the licensee;

(2) a cannabis testing laboratory license,

up to two thousand five hundred dollars ($2,500) per year and an additional fee of up to one thousand dollars ($1,000) per year for each additional licensed premises of the licensee;

(3) a cannabis manufacturer license, two thousand five hundred dollars ($2,500) per year and an additional fee of one thousand dollars ($1,000) per year for each additional licensed premises of the licensee;

(4) a cannabis producer license, two thousand five hundred dollars ($2,500) per year and an additional fee of one thousand dollars ($1,000) per year for each additional licensed premises of the licensee;

(5) a cannabis retailer license, two thousand five hundred dollars ($2,500) per year and an additional fee of one thousand dollars ($1,000) per year for each additional licensed premises of the licensee;

(6) a cannabis research laboratory license, two thousand five hundred dollars ($2,500) per year and an additional fee of one thousand dollars ($1,000) per year for each additional licensed premises of the licensee;

(7) a vertically integrated cannabis establishment license, seven thousand five hundred dollars ($7,500) per year and an additional fee of one thousand dollars ($1,000) per year for each licensed premises of the licensee;

(8) a cannabis producer microbusiness

license, up to one thousand dollars ($1,000) per year;

(9) an integrated cannabis microbusiness license, up to two thousand five hundred dollars ($2,500) per year and an additional fee of five hundred dollars ($500) per year for each licensed premises of the licensee; and

(10) a cannabis consumption area, up to two thousand five hundred dollars ($2,500) per year.

B. Except for cannabis producer microbusinesses and integrated cannabis microbusinesses, a licensee cultivating cannabis plants shall be assessed an additional annual fee no greater than fifty dollars ($50.00) per mature cannabis plant at the time of licensing or renewal.

C. A licensee may increase the number of mature plants licensed at the time of renewal and one other time per year in increments of five hundred mature plants. Fees may be prorated for the remainder of the licensing year.

D. The initial application fee and the annual renewal fee for a vertically integrated cannabis establishment license shall not exceed one hundred twenty-five thousand dollars ($125,000) for a license for both medical cannabis activity and commercial cannabis activity. The initial application fee and the annual renewal fee for a license or renewal of a license that authorizes only medical cannabis activity shall be one-half the fee applicable to a license authorizing both medical cannabis activity and

commercial cannabis activity.

E. If a cannabis producer microbusiness or an integrated cannabis microbusiness enters into a business arrangement with another licensee with the purpose or having the effect of evading the limitations of the licensee's license, such licensee shall not be eligible for the lower fee prescribed in Subsection A of this section and shall pay the per-plant fee prescribed in Subsection B of this section.

F. The division shall collect all renewal fees, including the renewal fees for all licensed premises, at the time of renewal of a license.

G. The fee for the issuance of a cannabis server permit shall not exceed thirty-five dollars ($35.00).

H. The division shall deposit all fees collected pursuant to the Cannabis Regulation Act in the cannabis regulation fund.

SECTION 10. CANNABIS TRAINING AND EDUCATION PROGRAM LICENSING--SANCTIONS.--

A. The division shall begin licensing cannabis training and education programs no later than January 1, 2022.

B. The division may suspend a license for repeated violations of the same serious and substantial rule promulgated pursuant to the Cannabis Regulation Act pertaining to public health and safety.

SECTION 11. CANNABIS SERVER PERMITS--CANNABIS SERVERS--PERMIT REQUIRED--APPLICATIONS--EDUCATION PROGRAM APPROVAL REQUIRED--ISSUANCE OR DENIAL OF A PERMIT OR APPROVAL--PENALTIES.--

A. The division shall promulgate rules consistent with this section and industry standards for issuance of a cannabis server permit and licenses for a cannabis consumption area. A cannabis research laboratory or an employee of the laboratory is not required to obtain or possess a cannabis server permit while performing activities authorized pursuant to a cannabis research laboratory.

B. The division shall issue cannabis server permits to persons twenty-one years of age or older who satisfy the requirements of this section and rules promulgated by the division. An applicant shall provide proof of satisfactory completion of a program provided by a cannabis server permit education provider approved by the division. A person shall not be employed as a cannabis server on a licensed premises unless that person obtains a cannabis server permit within thirty days of employment.

C. The cannabis server education program curriculum shall include the following subjects:

(1) the effect cannabis products have on the body and behavior, including the effect on a person's ability to operate a motor vehicle when under the influence of

cannabis products;

(2) the effect cannabis products have on a person when used in combination with alcohol or legal or illegal drugs;

(3) state laws concerning cannabis licensure, cannabis liability issues and driving under the influence of cannabis;

(4) methods of recognizing problem cannabis product users and techniques for intervening with problem cannabis product users;

(5) methods of identifying false driver's licenses and other documents used as evidence of age and identity to prevent the sale of cannabis products to a person under twenty-one years of age pursuant to the Cannabis Regulation Act; and

(6) harm reduction practices related to cannabis use.

D. A cannabis server permit is the property of the state and shall be immediately returned to the division upon suspension or revocation or denial of renewal of a permit.

E. Cannabis server permits shall be valid for a period of three years from the date the permit is issued and may be renewed upon providing proof that the permit holder has successfully completed up to four and one-half hours of continuing education and an examination as determined by the

division.

F. In addition to any other penalties provided by law, the following penalties may be imposed for sales, service or dispensing a cannabis product to a person under twenty-one years of age in violation of the provisions of the Cannabis Regulation Act or rules of the division:

(1) the division may suspend a cannabis server permit for a period of thirty days if the director finds that the cannabis server is guilty of a first offense of selling, serving or dispensing a cannabis product to a person under twenty-one years of age;

(2) the division shall suspend a cannabis server permit for a period of one year when the division finds that the cannabis server is guilty of a second offense of selling, serving or dispensing a cannabis product to a person under twenty-one years of age in violation of the Cannabis Regulation Act arising separately from the incident giving rise to the cannabis server's first offense;

(3) the division shall permanently revoke a cannabis server permit when it finds that the cannabis server is guilty of a third offense of selling, serving or dispensing a cannabis product to a person under twenty-one years of age in violation of the Cannabis Regulation Act arising separately from the incidents giving rise to the cannabis server's first and second offenses; and

(4) no person whose cannabis server permit is suspended pursuant to the provisions of this section shall offer, sell, serve or dispense a cannabis product as part of commercial cannabis activity in a cannabis consumption area during the period of suspension.

SECTION 12. LOCAL CONTROL.--

A. A local jurisdiction may:

(1) adopt time, place and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses; and

(2) allow for the smoking, vaporizing and ingesting of cannabis products within an indoor or outdoor cannabis consumption area if:

(a) unless licensed pursuant to the Lynn and Erin Compassionate Use Act, access to the cannabis consumption area is restricted to persons twenty-one years of age and older; and

(b) the cannabis establishment or integrated cannabis microbusiness is located at a minimum distance from a school or daycare center as determined by the local jurisdiction, but which minimum distance shall not be set at any more than three hundred feet from a school or daycare center that was in existence at the time the

establishment or microbusiness was licensed.

B. A local jurisdiction shall not:

(1) prevent transportation of cannabis products on public roads by a licensee that transports cannabis products in compliance with the Cannabis Regulation Act;

(2) completely prohibit the operation of a licensee;

(3) prohibit or limit signage attached to or located on licensed premises that identifies the premises as a cannabis establishment;

(4) require a licensed premises or a cannabis consumption area to be any more than three hundred feet from a school or daycare center that was in existence at the time the cannabis establishment or integrated cannabis microbusiness was licensed;

(5) require an existing licensee at a licensed premises to relocate; or

(6) prohibit a person from producing homegrown cannabis as provided for in the Cannabis Regulation Act.

SECTION 13. LICENSEE PROTECTIONS.--

A. Conduct by a licensee or a licensee representative that is allowed pursuant to a license and conduct by a person that allows property to be used by a

licensee or a licensee representative for conduct allowed pursuant to a license is lawful, not a violation of state or local law and is not a basis for seizure or forfeiture of any property or assets under state or local law.

B. The state or a local jurisdiction shall not impose a criminal, civil or administrative penalty on a licensee, a licensee representative or a person that allows property to be used by a licensee or a licensee representative pursuant to a license, solely for conduct allowed pursuant to a license.

SECTION 14. PROTECTION OF UNDERAGE PERSONS--PROVIDING CANNABIS PRODUCTS TO MINORS--PENALTIES.--

A. Except as allowed pursuant to the Cannabis Regulation Act, it is a violation of that act for a person, including a person licensed pursuant to the provisions of that act, or an employee, agent or lessee of that person, if the person knows or has reason to know that the person is violating the provisions of this section, to knowingly and intentionally:

(1) sell, serve or give cannabis products to a person under twenty-one years of age or allow a person under twenty-one years of age to consume cannabis products on the licensed premises;

(2) buy cannabis products for or procure the sale or service of cannabis products to a person under

twenty-one years of age;

(3) deliver cannabis products to a person under twenty-one years of age; or

(4) aid or assist a person under twenty-one years of age to buy, otherwise procure or be served cannabis products.

B. A licensee shall not employ a person younger than twenty-one years of age to engage in a commercial cannabis activity.

C. The division shall suspend or revoke the license and may fine the licensee in an amount not to exceed ten thousand dollars ($10,000), or both, when the division finds that a licensee or the licensee's employee or agent knowingly has sold, served or given any cannabis product to a person under twenty-one years of age.

D. The establishment of all of the following facts by a licensee prosecuted for a violation of Subsection D of this section and a cannabis server for a violation of Subsection F of Section 11 of the Cannabis Regulation Act shall constitute a defense:

(1) that the purchaser falsely represented in writing; by producing a driver's license bearing the purchaser's photograph; by producing a photographic identification card issued by the motor vehicle division of the taxation and revenue department; or by producing a

similar identification card issued pursuant to the laws of this state, another state, the federal government or the government of an Indian nation, tribe or pueblo that the person was twenty-one years of age or older;

(2) that the purchaser's appearance was such that an ordinary, prudent person would believe that the purchaser was twenty-one years of age or older; and

(3) that the sale was made in good faith, relying upon the purchaser's false written representation, driver's license or identification card produced as provided in Paragraph (1) of this subsection, and with the reasonable belief that the purchaser was actually twenty-one years of age or older.

E. Nothing in this section shall be construed or interpreted to prevent:

(1) the division from enforcing its rules against a licensee;

(2) a state agency from enforcing a law or rule that does not conflict with the Cannabis Regulation Act or rules promulgated pursuant to that act; or

(3) a local jurisdiction from enforcing a local ordinance that does not conflict with the Cannabis Regulation Act or rules promulgated pursuant to that act.

SECTION 15. TRANSPORT VIA COURIER.--

A. A vertically integrated cannabis establishment,

cannabis retailer or integrated cannabis microbusiness may courier cannabis products.

B. A courier may accept payment for services using any legal method of payment or payment on delivery.

SECTION 16. PACKAGING AND LABELING.--Before sale or transport via cannabis courier of a cannabis product, the cannabis product shall be labeled and packaged as provided in Section 17 of the Cannabis Regulation Act.

SECTION 17. CANNABIS PRODUCTS--PACKAGING AND LABELING--DIVISION RULEMAKING.--

A. Cannabis or cannabis extract included in a cannabis product that is manufactured in compliance with applicable law is not considered to be an adulterant under state law.

B. The division shall promulgate rules consistent with industry standards for cannabis products that establish labeling and packaging requirements, including that:

(1) packages shall be resealable, child-resistant, compostable and recyclable or made from recycled materials;

(2) packages and labels shall not be designed to be appealing to a child; and

(3) labels shall include:

(a) for a package containing only cannabis leaf or flower, the net weight of cannabis in the

package;

(b) identification of the licensee or licensees that produced or manufactured the cannabis product, the date on which the cannabis was harvested, the type of cannabis product and the date on which the cannabis product was manufactured and packaged;

(c) potency and pesticide use;

(d) a list of pharmacologically active ingredients;

(e) for cannabis products containing non-cannabis ingredients, a list of all ingredients and a disclosure of nutritional information for the product or cannabis extract disclosed in the same manner required under federal law for nutritional labeling for food for human consumption;

(f) a warning if nuts or other known allergens are used in the item or in its manufacture;

(g) a logo designed by the division that is distinctive in design, color, size and location such that the logo notifies a reasonable person that the package contains cannabis;

(h) a warning of possible adverse effects of consumption and the New Mexico poison and drug information center phone number;

(i) an expiration date; and

(j) other information as required by rules promulgated pursuant to the Cannabis Regulation Act.

SECTION 18. TESTING CANNABIS PRODUCTS--HEALTH AND SAFETY OF EMPLOYEES.--

A. A cannabis testing laboratory's testing of cannabis products shall comply with the requirements set forth in applicable law and rules.

B. In consultation with the department of environment and consistent with industry standards, the division shall promulgate rules to:

(1) ensure that testing of cannabis products occurs prior to distribution to cannabis retailers or sales by integrated cannabis microbusinesses;

(2) specify how often licensees shall test cannabis products;

(3) specify which persons bear the cost of testing cannabis products and medical cannabis;

(4) provide for recordkeeping;

(5) establish chain of custody protocols for testing sample transportation;

(6) ensure that testing samples are transported and stored in a manner that prevents degradation, contamination, tampering or diversion;

(7) specify protocols for testing sample collection that ensure accurate test results, including

requiring that testing samples be collected by laboratory staff trained in testing sample collection; and

(8) require destruction of a tested batch of cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards promulgated by the division, unless remedial measures can bring the cannabis products into compliance with the standards or the cannabis products can be used for research purposes.

C. Beginning no later than April 1, 2022, the division shall identify, in consultation with the department of environment, a set of updated certified reference materials for laboratory testing to be measured against.

D. The division shall work cooperatively with the department of environment to implement inspection of cannabis establishments to ensure the health and safety of employees in accordance with the Occupational Health and Safety Act and to determine compliance with rules promulgated by the environmental improvement board.

SECTION 19. RESEARCHING CANNABIS--RECORDKEEPING.--

A. A cannabis research laboratory's research of cannabis shall comply with the requirements set forth in applicable law and rules.

B. The division shall develop rules and procedures consistent with industry standards to provide for

recordkeeping to ensure that cannabis products are not removed from the cannabis research laboratory premises.

SECTION 20. ADVERTISING AND MARKETING RESTRICTIONS.--The division shall promulgate rules consistent with industry standards that:

A. prohibit the advertisement and marketing of cannabis products:

(1) on radio, television or other broadcast media, internet pop-ups and mass transit vehicles; provided that the division shall not prohibit advertising and marketing to:

(a) subscribers of subscription-based radio, television or other broadcast media who are twenty-one years of age or older; or

(b) persons twenty-one years of age or older who have solicited the advertising or marketing;

(2) that are false, deceptive or misleading, including making unproven health benefit claims;

(3) that are on billboards, posters, handbills or other visual media that are located or can be viewed within three hundred feet of a school, daycare center or church;

(4) that depict consumption by children or other persons who appear to be younger than twenty-one years of age;

(5) that use predatory marketing and advertising practices targeting minors; or

(6) that are designed using cartoon characters or to mimic any other product brand; and

B. require:

(1) all advertisements and marketing to accurately and legibly identify all persons responsible for its content; and

(2) advertisements in print and digital communications to be placed only where the audience is reasonably expected to be twenty-one years of age or older as determined by reliable, current audience composition data.

SECTION 21. CONTRACTS.--A contract related to the operation of a license is enforceable, and a contract entered into by a licensee or a licensee representative for conduct allowed pursuant to a cannabis establishment license or entered into by a person who allows property to be used by a licensee or a licensee representative for conduct allowed pursuant to a license shall not be deemed unenforceable on the basis that the conduct allowed pursuant to the license is prohibited by federal law.

SECTION 22. PROVISION OF PROFESSIONAL SERVICES.--An attorney, accountant, insurance agent, real estate agent, security guard or other person engaged in a profession subject to state licensure shall not be subject to

disciplinary action by a professional association, a state professional board or a state licensing entity because the professional provides professional services or assistance to prospective or licensed cannabis establishments or another person in connection with activity that the professional reasonably believes complies with the Cannabis Regulation Act and rules promulgated pursuant to that act.

SECTION 23. MEDICAL CANNABIS PROVISIONS UNAFFECTED.--Nothing in the Cannabis Regulation Act shall be construed to limit a privilege or right of a qualified patient, a primary caregiver or a reciprocal participant participating in the medical cannabis program or the use, dispensing, possession, prescribing, storage or transport of a prescription drug containing cannabis that is approved pursuant to the Federal Food, Drug, and Cosmetic Act.

SECTION 24. PROTECTIONS FOR THE USE OF CANNABIS.--

A. Conduct allowed pursuant to the Cannabis Regulation Act shall not in itself constitute grounds for a holder of a professional or occupational license to be subject to professional discipline for providing advice or services related to cannabis establishments or applications to operate cannabis establishments on the basis that cannabis is illegal under federal law.

B. An applicant for a professional or occupational license shall not be denied a license based solely on

previous employment related to cannabis establishments.

C. A person shall not be denied parental rights or custody of or visitation with a minor child by the state or local government based solely on conduct that is lawful pursuant to the Cannabis Regulation Act. Nothing in this subsection prevents law enforcement, the children, youth and families department or the courts from acting in the best interests of the minor child.

D. A person currently under parole, probation or other state supervision or released awaiting trial or other hearing shall not be punished or otherwise penalized based solely on conduct that is lawful pursuant to the Cannabis Regulation Act unless prohibition on the use or possession of cannabis has been a specific condition of parole, probation or other state supervision or release awaiting trial or other hearing.

E. A person shall not be denied eligibility in public assistance programs or denied health care based solely on conduct that is lawful pursuant to the Cannabis Regulation Act unless required by federal law.

SECTION 25. PERSONAL USE OF CANNABIS.--

A. The following conduct is lawful for a person who is twenty-one years of age or older and shall not constitute grounds for detention, search or arrest of a person or search of property, and cannabis products that

relate to the conduct are not contraband or subject to seizure or forfeiture pursuant to the Controlled Substances Act or the Forfeiture Act:

(1) possessing, using, being under the influence of, displaying, purchasing, obtaining or transporting not more cannabis than authorized by the Cannabis Regulation Act or the medical cannabis program;

(2) possessing in excess of two ounces of cannabis, sixteen grams of cannabis extract and eight hundred milligrams of edible cannabis if the excess is stored in the person's private residence and not visible from a public place;

(3) transferring, without financial consideration, to a person who is twenty-one years of age or older not more than the amount of cannabis lawfully purchased and obtained pursuant to the Cannabis Regulation Act or the medical cannabis program;

(4) ingesting or otherwise consuming cannabis or cannabis products purchased and obtained pursuant to the Cannabis Regulation Act or the medical cannabis program;

(5) possessing, using, displaying, purchasing, obtaining or manufacturing cannabis extract using nonvolatile solvents, alcohol or carbon dioxide or no solvents;

(6) manufacturing, transporting or giving away to a person twenty-one years of age or older cannabis paraphernalia;

(7) assisting another person who is twenty-one years of age or older in, or allowing property to be used in, any of the acts described in Paragraphs (1) through (6) of this subsection;

(8) smoking cannabis or cannabis products in an area authorized pursuant to the Cannabis Regulation Act or a local jurisdiction;

(9) possessing, planting, cultivating, harvesting, drying, manufacturing cannabis products using nonvolatile solvents, alcohol or carbon dioxide or no solvents or transporting not more than six mature cannabis plants and six immature cannabis plants per person; provided that despite a household having multiple residents, no more than twelve mature cannabis plants may be present in one household; and provided further that if the person does not exceed the maximum number of cannabis plants, the person may possess the cannabis produced by the cannabis plants notwithstanding any weight limits; and

(10) transporting homegrown cannabis or mature or immature cannabis plants when the person is moving the person's residence to another location or for purposes of testing or manufacturing.

B. Paragraph (6) of Subsection A of this section is intended to meet the requirements of 21 U.S.C. Section 863(f) by authorizing under state law any person in compliance with this section to manufacture, possess or distribute cannabis paraphernalia.

C. None of the following shall, individually or in combination with each other, constitute reasonable articulable suspicion of a crime and is not a basis to stop, detain or search a person:

(1) the odor of cannabis or cannabis extract or of burnt cannabis or cannabis extract;

(2) the possession of or the suspicion of possession of cannabis without evidence of quantity in excess of two ounces of cannabis, sixteen grams of cannabis extract or eight hundred milligrams of edible cannabis; or

(3) the possession of multiple containers of cannabis without evidence of quantity in excess of two ounces of cannabis, sixteen grams of cannabis extract or eight hundred milligrams of edible cannabis.

D. Paragraph (1) of Subsection A and Subsection C of this section shall not apply when a law enforcement officer is investigating whether a person is operating a vehicle or watercraft while intoxicated or under the influence of or impaired by alcohol or a drug or any combination thereof in violation of Section 66-8-102 or

66-13-3 NMSA 1978.

SECTION 26. LIMITS ON PERSONAL USE--PENALTIES.--

A. Nothing in Section 25 of the Cannabis Regulation Act shall be construed to:

(1) allow a person to smoke cannabis products in a public place, except in a cannabis consumption area; or

(2) restrict the ability of a person to prohibit conduct otherwise allowed in the Cannabis Regulation Act on the person's privately owned property.

B. A person who violates Paragraph (1) of Subsection A of this section shall be subject to a civil penalty of fifty dollars ($50.00).

C. As used in this section, "smoke" means to inhale, exhale, burn or carry any lighted or heated device or pipe or any other lighted or heated cannabis products intended for inhalation, whether natural or synthetic, in any manner or in any form.

D. A person less than eighteen years of age, the family of a person less than eighteen years of age or a person legally obligated to care for and support a person less than eighteen years of age who is subject to the fines pursuant to Subsection B of this section shall not be required to pay any fees or fines pursuant to the Cannabis Regulation Act.

SECTION 27. PERSONAL PRODUCTION OF CANNABIS--PENALTIES.--

A. Unless otherwise provided in the Cannabis Regulation Act, it is unlawful for a person without a license to intentionally produce cannabis products except as provided in this section.

B. A person twenty-one years of age or older who intentionally produces:

(1) more than six and up to twelve mature or immature cannabis plants shall be issued a penalty assessment pursuant to Section 31-19A-1 NMSA 1978 and is subject to a fine of fifty dollars ($50.00); and

(2) more than twelve mature or immature cannabis plants is guilty of a fourth degree felony and may be sentenced as provided in Section 31-18-15 NMSA 1978.

C. A person who is eighteen years of age or older but less than twenty-one years of age who intentionally produces:

(1) up to six mature or immature cannabis plants shall be issued a penalty assessment pursuant to Section 31-19A-1 NMSA 1978 and is subject to a fine of fifty dollars ($50.00);

(2) more than six mature or immature cannabis plants and up to twelve mature or immature cannabis plants is guilty of a misdemeanor and shall be sentenced

pursuant to the provisions of Section 31-19-1 NMSA 1978; and

(3) more than twelve mature or immature cannabis plants is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. A person who is less than eighteen years of age who intentionally produces cannabis products is guilty of a civil violation and shall be subject to:

(1) attendance at a four-hour evidence-based drug education and legal rights program at no cost to the minor; or

(2) four hours of community service.

SECTION 28. UNLICENSED SALES OF CANNABIS--PENALTIES.--

A. As used in this section, "traffic" means the:

(1) distribution, sale, barter or giving away of cannabis products; or

(2) possession with intent to distribute, sell, barter or give away cannabis products.

B. Unless otherwise provided in the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, it is unlawful for a person without a license to intentionally traffic cannabis products.

C. A person under eighteen years of age who violates Subsection B of this section shall be subject to:

(1) attendance at a four-hour evidence-based

drug education and legal rights program at no cost to the person; or

(2) four hours of community service.

D. Except as otherwise provided in Section 14 of the Cannabis Regulation Act, a person eighteen years of age or older who violates Subsection B of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

E. A person eighteen years of age or older who violates Subsection B of this section and who conducts unlicensed cannabis product sales from a building, room or other area open to the public in a manner that would lead a reasonable person to believe that the area is a cannabis establishment licensed pursuant to the Cannabis Regulation Act is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

SECTION 29. CANNABIS WITHIN RESTRICTED AREA--PENALTY.--Unless otherwise allowed in the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, a person shall not possess or intentionally distribute any amount of a cannabis product on the premises of a school or daycare center unless the person is a qualified patient, a primary caregiver or a reciprocal participant; provided that this section shall not apply to a person who possesses a cannabis product for

authorized purposes on the premises of a licensed cannabis training and education program. A person who violates this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

SECTION 30. UNLAWFUL POSSESSION OF CANNABIS--PENALTIES.--Except as allowed in the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act:

A. a person under twenty-one years of age shall not possess cannabis products. A person who violates this subsection is guilty of a civil violation and shall be subject to:

(1) attendance at a four-hour evidence-based drug education and legal rights program at no cost to the person; or

(2) four hours of community service; and

B. a person twenty-one years of age or older shall not possess more than two ounces of cannabis, sixteen grams of cannabis extract and eight hundred milligrams of edible cannabis in public. A person who violates this subsection with respect to:

(1) more than two but not more than eight ounces of cannabis, more than sixteen grams of cannabis extract and more than eight hundred milligrams of edible cannabis is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978; or

(2) more than eight ounces of cannabis, sixty-four grams of cannabis extract or three thousand two hundred milligrams of edible cannabis is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

SECTION 31. UNLICENSED MANUFACTURING OF CANNABIS EXTRACT--PENALTY.--It is unlawful for a person to manufacture cannabis extract without a license issued pursuant to the Cannabis Regulation Act unless the person produces and manufactures cannabis extract from homegrown cannabis using nonvolatile solvents, alcohol or carbon dioxide or no solvents. The use of any other solvent or process is expressly prohibited unless it is approved by the division. A person who violates this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

SECTION 32. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege solely because the person produced, possessed, distributed, dispensed or purchased cannabis products if the person produced, possessed, distributed, dispensed or purchased the cannabis products solely for the purpose of research conducted pursuant to the Lynn and Erin Compassionate Use Act or the Cannabis Regulation Act.

SECTION 33. REPORTING REQUIREMENTS FOR CANNABIS-RELATED VIOLATIONS.--

A. Within sixty days following the end of each fiscal year, every police and sheriff's department shall report on a form approved by the department of public safety the total number of arrests, citations and penalty assessments for cannabis-related violations broken down by:

(1) category and penalty level; and

(2) race, ethnicity, age and gender.

B. Each law enforcement agency shall submit its annual report to the department of public safety.

C. The department of public safety shall compile the reports submitted and shall issue by November 1 of each year an annual report of all cannabis-related violations in the state. The report shall aggregate the data for the state and shall disaggregate the data by agency, race, ethnicity, age and gender. The department of public safety shall make all annual reports submitted for previous fiscal years available on the department of public safety's website.

D. For purposes of this section, "cannabis-related violation" means a violation of any of Sections 27 through 31 of the Cannabis Regulation Act or a violation of Section 66-8-102 or 66-13-3 NMSA 1978 if the basis for the arrest or citation is impairment due to the use of cannabis products.

SECTION 34. EMPLOYER PROTECTIONS--EXEMPTIONS.--

A. Unless there is an agreement between the employer and employee, nothing in the Cannabis Regulation Act shall:

(1) restrict an employer's ability to prohibit or take an adverse employment action against an employee for impairment by or possession or use of intoxicating substances at work or during work hours;

(2) require an employer to commit any act that would cause the employer to be noncompliant with or in violation of federal law or federal regulations or that would result in the loss of a federal contract or federal funding; or

(3) prevent or infringe upon the rights of an employer to adopt and implement a written zero-tolerance policy regarding the use of cannabis products. A zero-tolerance policy may permit the discipline or termination of an employee on the basis of a positive drug test that indicates any amount of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite.

B. The Cannabis Regulation Act does not apply to an employee of an employer subject to the provisions of Title 2 of the federal Railway Labor Act.

C. Nothing in the Cannabis Regulation Act shall be construed to invalidate, diminish or otherwise interfere with

any collective bargaining agreement nor shall it be construed to invalidate, diminish or otherwise interfere with any party's power to collectively bargain such an agreement, or to an employer or employee.

D. As used in this section, "adverse employment action" means refusing to hire or employ a person; barring or discharging a person from employment; requiring a person to retire from employment; or discriminating against an employee in compensation or in terms, conditions or privileges of employment.

SECTION 35. APPEAL OF RULES.--A person who is or may be affected by a rule promulgated by the division or other state agency pursuant to the Cannabis Regulation Act may appeal to the district court.

SECTION 36. PUBLIC RECORDS AND OPEN MEETINGS.--Records of the division are subject to the Inspection of Public Records Act. Rulemaking and other hearings of the division are subject to the Open Meetings Act.

SECTION 37. INTRASTATE SOURCE.--Except as provided in Section 38 of the Cannabis Regulation Act, all cannabis products shall be derived from a source originating within New Mexico.

SECTION 38. IMPORTS AND EXPORTS.--

A. Notwithstanding the provisions of Section 37 of the Cannabis Regulation Act or any other provision of law,

the governor shall enter into agreements with other jurisdictions within or outside of the United States for the purposes of cross-jurisdictional delivery of cannabis products between this state and the other jurisdictions. Such agreements shall:

(1) ensure enforceable public health and safety standards;

(2) include a system to regulate and track the interstate or international delivery of cannabis products; and

(3) ensure that any cannabis products delivered into this state, prior to sale to a consumer, are tested, packaged and labeled pursuant to New Mexico laws and rules.

B. Notwithstanding any other provision of law and in accordance with an agreement described in Subsection A of this section, a person licensed to:

(1) courier cannabis products may deliver cannabis products to a person located in, and authorized to receive cannabis products by, another jurisdiction in the United States; and

(2) receive cannabis products may receive cannabis products from a person located in, and authorized to export cannabis products by, another jurisdiction in the United States or internationally.

C. This section shall take effect on the earlier date on which:

(1) federal law is amended to allow for the interstate or international transfer of cannabis products between authorized cannabis-related businesses; or

(2) the United States department of justice issues an opinion or memorandum allowing or tolerating the interstate or international transfer of cannabis products between cannabis-related businesses as authorized by state law.

SECTION 39. CANNABIS REGULATION FUND.--

A. The "cannabis regulation fund" is created in the state treasury. The fund consists of appropriations, gifts, grants, donations and fees collected by the division pursuant to the Cannabis Regulation Act and the medical cannabis program administered by the division. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall revert to the general fund.

B. Money in the cannabis regulation fund is subject to appropriation by the legislature to fund the division, the department of health, the department of environment, the New Mexico department of agriculture, the taxation and revenue department and the department of public safety for the purposes of carrying out the provisions of the Cannabis Regulation Act and the Lynn and Erin Compassionate

Use Act.

SECTION 40. PLANT LIMIT.--No later than September 1, 2021, and each September 1 thereafter, the division shall by rule limit, by plant count, canopy or square footage, the number of cannabis plants that a licensee that is not an integrated cannabis microbusiness or a cannabis producer microbusiness may produce. The rule shall set the number of allowed cannabis plants per licensee to meet an average national market demand for cannabis products in states where adult and medical cannabis are authorized during the preceding year using a consumer base of no less than twenty percent of the adult population of New Mexico.

SECTION 41. INDIAN NATIONS, TRIBES AND PUEBLOS--INTERGOVERNMENTAL AGREEMENTS.--

A. The department may enter into one or more intergovernmental agreements with any tribal government to efficiently coordinate the cross-jurisdictional administration of the laws of this state and the laws of tribal governments relating to the use of cannabis products set forth in the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act. The agreements may include, without limitation, provisions relating to:

(1) criminal and civil law enforcement;

(2) regulatory issues relating to the possession, delivery, production, processing or use of

cannabis products;

(3) the administration of laws relating to taxation;

(4) any immunity, preemption or conflict of law relating to the possession, delivery, production, processing or use of cannabis products; and

(5) the resolution of any disputes between a tribal government and the state, which may include, without limitation, the use of mediation or other nonjudicial processes.

B. An agreement entered into pursuant to this section shall:

(1) provide for the preservation of public health and safety;

(2) ensure the security of cannabis establishments and the corresponding facilities on tribal land;

(3) establish provisions regulating business involving cannabis that passes between tribal land and non-tribal land in New Mexico; and

(4) be negotiated in good faith, which shall respect and protect state and tribal sovereign immunity.

C. As used in this section, "tribal government" means a federally recognized Indian nation, tribe or pueblo located wholly or partially in the state.

SECTION 42. COOPERATION OF AGENCIES.--All state agencies shall cooperate with the division in carrying out the provisions of the Cannabis Regulation Act.

SECTION 43. A new section of Chapter 7 NMSA 1978 is enacted to read:

"SHORT TITLE.--Sections 43 through 47 of this act may be cited as the "Cannabis Tax Act"."

SECTION 44. A new section of Chapter 7 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Cannabis Tax Act:

A. "cannabis":

(1) means all parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include:

(a) the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or

(b) the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or another product;

B. "cannabis extract":

(1) means a product obtained by separating resins from cannabis by solvent extraction using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol or carbon dioxide; and

(2) does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product;

C. "cannabis product" means a product that is or that contains cannabis or cannabis extracts, including edible or topical products that may also contain other ingredients; and

D. "cannabis retailer" means a person whose license from the cannabis control division of the regulation and licensing department allows the person to sell cannabis products to a person who purchases, acquires, possesses or uses the cannabis product for a purpose other than resale."

SECTION 45. A new section of Chapter 7 NMSA 1978 is enacted to read:

"CANNABIS EXCISE TAX.--

A. An excise tax is imposed on a cannabis retailer that sells cannabis products in this state. The tax imposed

by this section may be referred to as the "cannabis excise tax".

B. The rate of the cannabis excise tax shall be at the following rates and shall be applied to the price paid for a cannabis product:

(1) prior to July 1, 2025, twelve percent;

(2) beginning July 1, 2025 and prior to July 1, 2026, thirteen percent;

(3) beginning July 1, 2026 and prior to July 1, 2027, fourteen percent;

(4) beginning July 1, 2027 and prior to July 1, 2028, fifteen percent;

(5) beginning July 1, 2028 and prior to July 1, 2029, sixteen percent;

(6) beginning July 1, 2029 and prior to July 1, 2030, seventeen percent; and

(7) beginning July 1, 2030, eighteen percent.

C. The cannabis excise tax shall not apply to retail sales of medical cannabis products sold to a qualified patient or a primary caregiver who presents a registry identification card issued pursuant to the Lynn and Erin Compassionate Use Act or a reciprocal participant who presents similar proof from another state, the District of Columbia or a territory or commonwealth of the United States

at the time of the sale."

SECTION 46. A new section of Chapter 7 NMSA 1978 is enacted to read:

"DATE PAYMENT DUE.--The cannabis excise tax is to be paid on or before the twenty-fifth day of the month following the month in which the taxable sale occurs."

SECTION 47. A new section of Chapter 7 NMSA 1978 is enacted to read:

"INTERPRETATION OF THE CANNABIS TAX ACT--ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall administer and enforce the collection of the cannabis excise tax pursuant to the Tax Administration Act."

SECTION 48. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended by Laws 2019, Chapter 47, Section 1 and by Laws 2019, Chapter 53, Section 10 and also by Laws 2019, Chapter 270, Section 1) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

(1) Income Tax Act;

(2) Withholding Tax Act;

(3) Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act;

(4) Gross Receipts and Compensating Tax Act, Interstate Telecommunications Gross Receipts Tax Act and Leased Vehicle Gross Receipts Tax Act;

(5) Liquor Excise Tax Act;

(6) Local Liquor Excise Tax Act;

(7) any municipal local option gross receipts tax or municipal compensating tax;

(8) any county local option gross receipts tax or county compensating tax;

(9) Special Fuels Supplier Tax Act;

(10) Gasoline Tax Act;

(11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;

(12) Alternative Fuel Tax Act;

(13) Cigarette Tax Act;

(14) Estate Tax Act;

(15) Railroad Car Company Tax Act;

(16) Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act and high-wage jobs tax credit;

(17) Corporate Income and Franchise Tax Act;

(18) Uniform Division of Income for Tax

Purposes Act;

(19) Multistate Tax Compact;

(20) Tobacco Products Tax Act;

(21) the telecommunications relay service surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge shall be considered a tax for the purposes of the Tax Administration Act;

(22) the Insurance Premium Tax Act;

(23) the Health Care Quality Surcharge Act; and

(24) the Cannabis Tax Act;

B. the administration and enforcement of the following taxes, surtaxes, advanced payments or tax acts as they now exist or may hereafter be amended:

(1) Resources Excise Tax Act;

(2) Severance Tax Act;

(3) any severance surtax;

(4) Oil and Gas Severance Tax Act;

(5) Oil and Gas Conservation Tax Act;

(6) Oil and Gas Emergency School Tax Act;

(7) Oil and Gas Ad Valorem Production Tax Act;

(8) Natural Gas Processors Tax Act;

(9) Oil and Gas Production Equipment Ad Valorem Tax Act;

(10) Copper Production Ad Valorem Tax Act;

(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

(12) Enhanced Oil Recovery Act;

(13) Natural Gas and Crude Oil Production Incentive Act; and

(14) intergovernmental production tax credit and intergovernmental production equipment tax credit;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

(1) Weight Distance Tax Act;

(2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;

(3) Uniform Unclaimed Property Act (1995);

(4) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;

(5) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act;

(6) the water conservation fee imposed by

Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and

(7) the gaming tax imposed pursuant to the Gaming Control Act; and

D. the administration and enforcement of all other laws, with respect to which the department is charged with responsibilities pursuant to the Tax Administration Act, but only to the extent that the other laws do not conflict with the Tax Administration Act."

SECTION 49. Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20, as amended by Laws 2015, Chapter 89, Section 1 and by Laws 2015, Chapter 100, Section 1) is amended to read:

"7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO MUNICIPALITIES OR COUNTIES.--

A. The provisions of this section apply to:

(1) any distribution to a municipality pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

(2) any transfer to a municipality with respect to any local option gross receipts tax imposed by that municipality;

(3) any transfer to a county with respect to any local option gross receipts tax imposed by that county;

(4) any distribution to a county pursuant to Section 7-1-6.16 or 7-1-6.47 NMSA 1978;

(5) any distribution to a municipality or a county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

(6) any transfer to a county with respect to any tax imposed in accordance with the Local Liquor Excise Tax Act;

(7) any distribution to a county from the county government road fund pursuant to Section 7-1-6.26 NMSA 1978;

(8) any distribution to a municipality of gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978;

(9) any distribution to a municipality of compensating taxes pursuant to Section 7-1-6.55 NMSA 1978; and

(10) any distribution to a municipality or a county of cannabis excise taxes pursuant to the Cannabis Tax Act.

B. Before making a distribution or transfer specified in Subsection A of this section to a municipality or county for the month, amounts comprising the net receipts shall be segregated into two mutually exclusive categories. One category shall be for amounts relating to the current month, and the other category shall be for amounts relating to prior periods. The total of each category for a municipality or county shall be reported each month to that

municipality or county. If the total of the amounts relating to prior periods is less than zero and its absolute value exceeds the greater of one hundred dollars ($100) or an amount equal to twenty percent of the average distribution or transfer amount for that municipality or county, then the following procedures shall be carried out:

(1) all negative amounts relating to any period prior to the three calendar years preceding the year of the current month, net of any positive amounts in that same time period for the same taxpayers to which the negative amounts pertain, shall be excluded from the total relating to prior periods. Except as provided in Paragraph (2) of this subsection, the net receipts to be distributed or transferred to the municipality or county shall be adjusted to equal the amount for the current month plus the revised total for prior periods; and

(2) if the revised total for prior periods determined pursuant to Paragraph (1) of this subsection is negative and its absolute value exceeds the greater of one hundred dollars ($100) or an amount equal to twenty percent of the average distribution or transfer amount for that municipality or county, the revised total for prior periods shall be excluded from the distribution or transfers and the net receipts to be distributed or transferred to the municipality or county shall be equal to the amount for the

current month.

C. The department shall recover from a municipality or county the amount excluded by Paragraph (2) of Subsection B of this section. This amount may be referred to as the "recoverable amount".

D. Prior to or concurrently with the distribution or transfer to the municipality or county of the adjusted net receipts, the department shall notify the municipality or county whose distribution or transfer has been adjusted pursuant to Paragraph (2) of Subsection B of this section:

(1) that the department has made such an adjustment, that the department has determined that a specified amount is recoverable from the municipality or county and that the department intends to recover that amount from future distributions or transfers to the municipality or county;

(2) that the municipality or county has ninety days from the date notice is made to enter into a mutually agreeable repayment agreement with the department;

(3) that if the municipality or county takes no action within the ninety-day period, the department will recover the amount from the next six distributions or transfers following the expiration of the ninety days; and

(4) that the municipality or county may inspect, pursuant to Section 7-1-8.9 NMSA 1978, an

application for a claim for refund that gave rise to the recoverable amount, exclusive of any amended returns that may be attached to the application.

E. No earlier than ninety days from the date notice pursuant to Subsection D of this section is given, the department shall begin recovering the recoverable amount from a municipality or county as follows:

(1) the department may collect the recoverable amount by:

(a) decreasing distributions or transfers to the municipality or county in accordance with a repayment agreement entered into with the municipality or county; or

(b) except as provided in Paragraphs (2) and (3) of this subsection, if the municipality or county fails to act within the ninety days, decreasing the amount of the next six distributions or transfers to the municipality or county following expiration of the ninety-day period in increments as nearly equal as practicable and sufficient to recover the amount;

(2) if, pursuant to Subsection B of this section, the secretary determines that the recoverable amount is more than fifty percent of the average distribution or transfer of net receipts for that municipality or county, the secretary:

(a) shall recover only up to fifty percent of the average distribution or transfer of net receipts for that municipality or county; and

(b) may, in the secretary's discretion, waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance; and

(3) if, after application of a refund claim, audit adjustment, correction of a mistake by the department or other adjustment of a prior period, but prior to any recovery of the department pursuant to this section, the total net receipts of a municipality or county for the twelve-month period beginning with the current month are reduced or are projected to be reduced to less than fifty percent of the average distribution or transfer of net receipts, the secretary may waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance.

F. No later than ninety days from the date notice pursuant to Subsection D of this section is given, the department shall provide the municipality or county adequate opportunity to review an application for a claim for refund that gave rise to the recoverable amount, exclusive of any amended returns that may be attached to the application, pursuant to Section 7-1-8.9 NMSA 1978.

G. On or before September 1 of each year beginning

in 2016, the secretary shall report to the state board of finance and the legislative finance committee the total recoverable amount waived pursuant to Subparagraph (b) of Paragraph (2) and Paragraph (3) of Subsection E of this section for each municipality and county in the prior fiscal year.

H. The secretary is authorized to decrease a distribution or transfer to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution or transfer to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or transfer or notice to redirect a distribution or transfer to a municipality or county, the secretary shall decrease or redirect the next designated distribution or transfer, and succeeding distributions or transfers as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or by the amount of the state distribution intercept authorized pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall

transfer the state distributions intercept amount to the municipal or county treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority. A decrease to or redirection of a distribution or transfer pursuant to this subsection that arose:

(1) prior to an adjustment of a distribution or transfer of net receipts creating a recoverable amount owed to the department takes precedence over any collection of any recoverable amount pursuant to Paragraph (2) of Subsection B of this section, which may be made only from the net amount of the distribution or transfer remaining after application of the decrease or redirection pursuant to this subsection; and

(2) after an adjustment of a distribution or transfer of net receipts creating a recoverable amount owed to the department shall be subordinate to any collection of any recoverable amount pursuant to Paragraph (2) of Subsection B of this section.

I. Upon the direction of the secretary of finance and administration pursuant to Section 9-6-5.2 NMSA 1978, the

secretary shall temporarily withhold the balance of a distribution to a municipality or county, net of any decrease or redirected amount pursuant to Subsection H of this section and any recoverable amount pursuant to Paragraph (2) of Subsection B of this section, that has failed to submit an audit report required by the Audit Act or a financial report required by Subsection F of Section 6-6-2 NMSA 1978. The amount to be withheld, the source of the withheld distribution and the number of months that the distribution is to be withheld shall be as directed by the secretary of finance and administration. A distribution withheld pursuant to this subsection shall remain in the tax administration suspense fund until distributed to the municipality or county and shall not be distributed to the general fund. An amount withheld pursuant to this subsection shall be distributed to the municipality or county upon direction of the secretary of finance and administration.

J. As used in this section:

(1) "amounts relating to the current month" means any amounts included in the net receipts of the current month that represent payment of tax due for the current month, correction of amounts processed in the current month that relate to the current month or that otherwise relate to obligations due for the current month;

(2) "amounts relating to prior periods"

means any amounts processed during the current month that adjust amounts processed in a period or periods prior to the current month regardless of whether the adjustment is a correction of a department error or due to the filing of amended returns, payment of department-issued assessments, filing or approval of claims for refund, audit adjustments or other cause;

(3) "average distribution or transfer amount" means the following amounts; provided that a distribution or transfer that is negative shall not be used in calculating the amounts:

(a) the annual average of the total amount distributed or transferred to a municipality or county in each of the three twelve-month periods preceding the current month;

(b) if a distribution or transfer to a municipality or county has been made for less than three years, the total amount distributed or transferred in the year preceding the current month; or

(c) if a municipality or county has not received distributions or transfers of net receipts for twelve or more months, the monthly average of net receipts distributed or transferred to the municipality or county preceding the current month multiplied by twelve;

(4) "current month" means the month for

which the distribution or transfer is being prepared; and

(5) "repayment agreement" means an agreement between the department and a municipality or county under which the municipality or county agrees to allow the department to recover an amount determined pursuant to Paragraph (2) of Subsection B of this section by decreasing distributions or transfers to the municipality or county for one or more months beginning with the distribution or transfer to be made with respect to a designated month. No interest shall be charged."

SECTION 50. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--CANNABIS EXCISE TAX--MUNICIPALITIES AND COUNTIES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, in an amount equal to thirty-three and thirty-three hundredths percent of the net receipts attributable to the cannabis excise tax from cannabis retailers within the municipality.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each county in an amount equal to thirty-three and thirty-three hundredths percent of the net receipts attributable to the cannabis excise tax from

cannabis retailers within the county area of the county.

C. The department may deduct an amount not to exceed three percent of the distributions made pursuant to this section for the reasonable costs for administering the distributions.

D. As used in this section, "county area" means that portion of a county located outside the boundaries of any municipality."

SECTION 51. Section 7-2-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 26, as amended) is amended to read:

"7-2-2. DEFINITIONS.--For the purpose of the Income Tax Act and unless the context requires otherwise:

A. "adjusted gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code, as that section may be amended or renumbered;

B. "base income":

(1) means, for estates and trusts, that part of the estate's or trust's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus, for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year;

(2) means, for taxpayers other than estates or trusts, that part of the taxpayer's income defined as adjusted gross income plus, for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year;

(3) includes, for all taxpayers, any other income of the taxpayer not included in adjusted gross income but upon which a federal tax is calculated pursuant to the Internal Revenue Code for income tax purposes, except amounts for which a calculation of tax is made pursuant to Section 55 of the Internal Revenue Code, as that section may be amended or renumbered; "base income" also includes interest received on a state or local bond;

(4) includes, for all taxpayers, an amount deducted pursuant to Section 7-2-32 NMSA 1978 in a prior taxable year if:

(a) such amount is transferred to another qualified tuition program, as defined in Section 529 of the Internal Revenue Code, not authorized in the Education Trust Act; or

(b) a distribution or refund is made for any reason other than: 1) to pay for qualified higher education expenses, as defined pursuant to Section 529 of the

Internal Revenue Code; or 2) upon the beneficiary's death, disability or receipt of a scholarship; and

(5) excludes, for a taxpayer who conducts a lawful business pursuant to the laws of the state, an amount equal to any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed by Section 280E of the Internal Revenue Code, as that section may be amended or renumbered;

C. "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services;

D. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "fiduciary" means a guardian, trustee, executor, administrator, committee, conservator, receiver, individual or corporation acting in any fiduciary capacity;

F. "filing status" means "married filing joint returns", "married filing separate returns", "head of household", "surviving spouse" and "single", as those terms are generally defined for federal tax purposes;

G. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

H. "head of household" means "head of household" as generally defined for federal income tax purposes;

I. "individual" means a natural person, an estate, a trust or a fiduciary acting for a natural person, trust or estate;

J. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

K. "lump-sum amount" means, for the purpose of determining liability for federal income tax, an amount that was not included in adjusted gross income but upon which the five-year-averaging or the ten-year-averaging method of tax computation provided in Section 402 of the Internal Revenue Code, as that section may be amended or renumbered, was applied;

L. "modified gross income" means all income of the taxpayer and, if any, the taxpayer's spouse and dependents, undiminished by losses and from whatever source, including:

(1) compensation;

(2) net profit from business;

(3) gains from dealings in property;

(4) interest;

(5) net rents;

(6) royalties;

(7) dividends;

(8) alimony and separate maintenance

payments;

(9) annuities;

(10) income from life insurance and endowment contracts;

(11) pensions;

(12) discharge of indebtedness;

(13) distributive share of partnership income;

(14) income in respect of a decedent;

(15) income from an interest in an estate or a trust;

(16) social security benefits;

(17) unemployment compensation benefits;

(18) workers' compensation benefits;

(19) public assistance and welfare benefits;

(20) cost-of-living allowances; and

(21) gifts;

M. "modified gross income" excludes:

(1) payments for hospital, dental, medical or drug expenses to or on behalf of the taxpayer;

(2) the value of room and board provided by federal, state or local governments or by private individuals or agencies based upon financial need and not as a form of compensation;

(3) payments pursuant to a federal, state or

local government program directly or indirectly to a third party on behalf of the taxpayer when identified to a particular use or invoice by the payer; or

(4) payments for credits and rebates pursuant to the Income Tax Act and made for a credit pursuant to Section 7-3-9 NMSA 1978;

N. "net income" means, for estates and trusts, base income adjusted to exclude amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States and means, for taxpayers other than estates or trusts, base income adjusted to exclude:

(1) an amount equal to the standard deduction allowed the taxpayer for the taxpayer's taxable year by Section 63 of the Internal Revenue Code, as that section may be amended or renumbered;

(2) an amount equal to the itemized deductions defined in Section 63 of the Internal Revenue Code, as that section may be amended or renumbered, allowed the taxpayer for the taxpayer's taxable year less the amount excluded pursuant to Paragraph (1) of this subsection and less the amount of state and local income and sales taxes included in the taxpayer's itemized deductions;

(3) an amount equal to the product of the exemption amount allowed for the taxpayer's taxable year by

Section 151 of the Internal Revenue Code, as that section may be amended or renumbered, multiplied by the number of personal exemptions allowed for federal income tax purposes;

(4) income from obligations of the United States of America less expenses incurred to earn that income;

(5) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States;

(6) for taxable years that began prior to January 1, 1991, an amount equal to the sum of:

(a) net operating loss carryback deductions to that year from taxable years beginning prior to January 1, 1991 claimed and allowed, as provided by the Internal Revenue Code; and

(b) net operating loss carryover deductions to that year claimed and allowed;

(7) for taxable years beginning on or after January 1, 1991 and prior to January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed, provided that the amount of any net operating loss carryover from a taxable year beginning on or after January 1, 1991 and prior to January 1, 2013 may be excluded only as follows:

(a) in the case of a timely filed return, in the taxable year immediately following the taxable

year for which the return is filed; or

(b) in the case of amended returns or original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and

(c) in either case, if the net operating loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which the exclusion first applies, in the next four succeeding taxable years in turn until the net operating loss carryover is exhausted for any net operating loss carryover from a taxable year prior to January 1, 2013; in no event shall a net operating loss carryover from a taxable year beginning prior to January 1, 2013 be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies;

(8) for taxable years beginning on or after January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed; provided that the amount of any net operating loss carryover may be excluded only as follows:

(a) in the case of a timely filed return, in the taxable year immediately following the taxable year for which the return is filed; or

(b) in the case of amended returns or

original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and

(c) in either case, if the net operating loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which the exclusion first applies, in the next nineteen succeeding taxable years in turn until the net operating loss carryover is exhausted for any net operating loss carryover from a taxable year beginning on or after January 1, 2013; in no event shall a net operating loss carryover from a taxable year beginning: 1) prior to January 1, 2013 be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies; and 2) on or after January 1, 2013 be excluded in any taxable year after the nineteenth taxable year beginning after the taxable year to which the exclusion first applies; and

(9) for taxable years beginning on or after January 1, 2011, an amount equal to the amount included in adjusted gross income that represents a refund of state and local income and sales taxes that were deducted for federal tax purposes in taxable years beginning on or after January 1, 2010;

O. "net operating loss" means any net operating

loss, as defined by Section 172(c) of the Internal Revenue Code, as that section may be amended or renumbered, for a taxable year as further increased by the income, if any, from obligations of the United States for that year less related expenses;

P. "net operating loss carryover" means the amount, or any portion of the amount, of a net operating loss for any taxable year that, pursuant to Paragraph (6), (7) or (8) of Subsection N of this section, may be excluded from base income;

Q. "nonresident" means every individual not a resident of this state;

R. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

S. "resident" means an individual who is domiciled in this state during any part of the taxable year or an individual who is physically present in this state for one hundred eighty-five days or more during the taxable year; but any individual, other than someone who was physically present in the state for one hundred eighty-five days or more during

the taxable year, who, on or before the last day of the taxable year, changed the individual's place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state is not a resident for the purposes of the Income Tax Act for periods after that change of abode;

T. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

U. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or any political subdivision of a foreign country;

V. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;

W. "surviving spouse" means "surviving spouse" as generally defined for federal income tax purposes;

X. "taxable income" means net income less any lump-sum amount;

Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Income Tax Act and includes, in the case

of the return made for a fractional part of a year under the provisions of the Income Tax Act, the period for which the return is made; and

Z. "taxpayer" means any individual subject to the tax imposed by the Income Tax Act."

SECTION 52. Section 7-2A-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 33, as amended) is amended to read:

"7-2A-2. DEFINITIONS.--For the purpose of the Corporate Income and Franchise Tax Act and unless the context requires otherwise:

A. "bank" means any national bank, national banking association, state bank or bank holding company;

B. "apportioned net income" or "apportioned net loss" means net income allocated and apportioned to New Mexico pursuant to the provisions of the Corporate Income and Franchise Tax Act or the Uniform Division of Income for Tax Purposes Act, but excluding from the sales factor any sales that represent intercompany transactions between members of the filing group;

C. "base income" means the federal taxable income or the federal net operating loss of a corporation for the taxable year calculated pursuant to the Internal Revenue Code, after special deductions provided in Sections 241 through 249 of the Internal Revenue Code but without any deduction for net operating losses, as if the corporation

filed a federal tax return as a separate domestic entity, modified as follows:

(1) adding to that income:

(a) interest received on a state or local bond exempt under the Internal Revenue Code;

(b) the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real estate investment trust; and

(c) the amount of any deduction, other than for premiums, for amounts paid directly or indirectly to a commonly controlled entity that is exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978;

(2) subtracting from that income:

(a) income from obligations of the United States net of expenses incurred to earn that income;

(b) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States net of any related expenses;

(c) an amount equal to one hundred percent of the subpart F income, as that term is defined in Section 952 of the Internal Revenue Code, as that section may be amended or renumbered, included in the income of the corporation; and

(d) an amount equal to one hundred

percent of the income of the corporation under Section 951A of the Internal Revenue Code, after allowing the deduction provided in Section 250 of the Internal Revenue Code;

(3) making other adjustments deemed necessary to properly reflect income of the unitary group, including attribution of income or expense related to unitary assets held by related corporations that are not part of the filing group; and

(4) for a taxpayer that conducts a lawful business pursuant to the laws of this state, excludes an amount equal to any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed pursuant to Section 280E of the Internal Revenue Code, as that section may be amended or renumbered;

D. "captive real estate investment trust" means a corporation, trust or association taxed as a real estate investment trust pursuant to Section 857 of the Internal Revenue Code, the shares or beneficial interests of which are not regularly traded on an established securities market; provided that more than fifty percent of any class of beneficial interests or shares of the real estate investment trust are owned directly, indirectly or constructively by the taxpayer during all or a part of the taxpayer's taxable year;

E. "common ownership" means the direct or indirect control or ownership of more than fifty percent of the

outstanding voting stock, ownership of which is determined pursuant to Section 1563 of the Internal Revenue Code, as that section may be amended or renumbered, of:

(1) a parent-subsidiary controlled group as defined in Section 1563 of the Internal Revenue Code, except that fifty percent shall be substituted for eighty percent;

(2) a brother-sister controlled group as defined in Section 1563 of the Internal Revenue Code; or

(3) three or more corporations each of which is a member of a group of corporations described in Paragraph (1) or (2) of this subsection, and one of which is:

(a) a common parent corporation included in a group of corporations described in Paragraph (1) of this subsection; and

(b) included in a group of corporations described in Paragraph (2) of this subsection;

F. "consolidated group" means the group of entities properly filing a federal consolidated return under the Internal Revenue Code for the taxable year;

G. "corporation" means corporations, joint stock companies, real estate trusts organized and operated under the Real Estate Trust Act, financial corporations and banks, other business associations and, for corporate income tax purposes, partnerships and limited liability companies taxed as corporations under the Internal Revenue Code;

H. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

I. "filing group" means a group of corporations properly included in a return pursuant to Section 7-2A-8.3 NMSA 1978 for a particular taxable year;

J. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

K. "grandfathered net operating loss carryover" means:

(1) the amount of net loss properly reported to New Mexico for taxable years beginning January 1, 2013 and prior to January 1, 2020 as part of a timely filed original return, or an amended return for those taxable years filed prior to January 1, 2020, to the extent such loss can be attributed to one or more corporations that are properly included in the taxpayer's return for the first taxable year beginning on or after January 1, 2020;

(2) reduced by:

(a) adding back deductions that were taken by the corporation or corporations for royalties or interest paid to one or more related corporations, but only to the extent that such adjustment would not create a net

loss for such related corporations; and

(b) the amount of net operating loss deductions taken prior to January 1, 2020 that would be charged against those losses consistent with the Internal Revenue Code and provisions of the Corporate Income and Franchise Tax Act applicable to the year of the deduction; and

(3) apportioned to New Mexico using the apportionment factors that can properly be attributed to the corporation or corporations for the year of the net loss;

L. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

M. "net income" means:

(1) the base income of a corporation properly filing a tax return as a separate entity; or

(2) the combined base income and losses of corporations that are part of a filing group that is computed after eliminating intercompany income and expense in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and the Corporate Income and Franchise Tax Act;

N. "net operating loss carryover" means the apportioned net loss properly reported on an original or amended tax return for taxable years beginning on or after January 1, 2020 by the taxpayer:

(1) plus:

(a) the portion of an apportioned net loss properly reported to New Mexico for a taxable year beginning on or after January 1, 2020, on a separate year return, to the extent the taxpayer would have been entitled to include the portion of such apportioned net loss in the taxpayer's consolidated net operating loss carryforward under the Internal Revenue Code if the taxpayer filed a consolidated federal return; and

(b) the taxpayer's grandfathered net operating loss carryover; and

(2) minus:

(a) the amount of the net operating loss carryover attributed to an entity that has left the filing group, computed in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and applicable regulations, as if the taxpayer were filing a consolidated return; and

(b) the amount of net operating loss deductions properly taken by the taxpayer;

O. "net operating loss deduction" means the portion of the net operating loss carryover that may be deducted from the taxpayer's apportioned net income under the Internal Revenue Code as of January 1, 2018 for the taxable year in which the deduction is taken, including the eighty

percent limitation of Section 172(a) of the Internal Revenue Code as of January 1, 2018 calculated on the basis of the taxpayer's apportioned net income;

P. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

Q. "real estate investment trust" has the meaning ascribed to the term in Section 856 of the Internal Revenue Code, as that section may be amended or renumbered;

R. "related corporation" means a corporation that is under common ownership with one or more corporations but that is not included in the same tax return;

S. "return" means any tax or information return, including a water's-edge or worldwide combined return, a consolidated return, a declaration of estimated tax or a claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the department by or on behalf of any person;

T. "secretary" means the secretary of taxation and

revenue or the secretary's delegate;

U. "separate year return" means a properly filed original or amended return for a taxable year beginning on or after January 1, 2020 by a taxpayer reporting a loss, a portion of which is claimed as part of the net operating loss carryover by another taxpayer in a subsequent return period;

V. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or political subdivision thereof or any political subdivision of a foreign country;

W. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;

X. "taxable income" means a taxpayer's apportioned net income minus the net operating loss deduction for the taxable year;

Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Corporate Income and Franchise Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of that act, the period

for which the return is made;

Z. "taxpayer" means any corporation or group of corporations filing a return pursuant to Section 7-2A-8.3 NMSA 1978 subject to the taxes imposed by the Corporate Income and Franchise Tax Act;

AA. "unitary group" means a group of two or more corporations, including a captive real estate investment trust, but not including an S corporation, an insurance company subject to the provisions of the New Mexico Insurance Code, an insurance company that would be subject to the New Mexico Insurance Code if the insurance company engaged in business in this state or a real estate investment trust that is not a captive real estate investment trust, that are:

(1) related through common ownership; and

(2) economically interdependent with one another as demonstrated by the following factors:

(a) centralized management;

(b) functional integration; and

(c) economies of scale;

BB. "water's-edge group" means all corporations that are part of a unitary group, except:

(1) corporations that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and

(2) corporations wherever organized or

incorporated that have less than twenty percent of their property, payroll and sales sourced to locations within the United States, following the sourcing rules of the Uniform Division of Income for Tax Purposes Act; and

CC. "worldwide combined group" means all members of a unitary group, except members that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978, irrespective of the country in which the corporations are incorporated or conduct business activity."

SECTION 53. Section 7-9-73.2 NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:

"7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--CANNABIS.--

A. Receipts from the sale of prescription drugs and oxygen and oxygen services provided by a licensed medicare durable medical equipment provider and cannabis products that are sold in accordance with the Lynn and Erin Compassionate Use Act may be deducted from gross receipts and governmental gross receipts.

B. For the purposes of this section, "prescription drugs" means insulin and substances that are:

(1) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person

authorized under state law to do so;

(2) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

SECTION 54. Section 9-11-12.1 NMSA 1978 (being Laws 1997, Chapter 64, Section 1, as amended) is amended to read:

"9-11-12.1. TRIBAL COOPERATIVE AGREEMENTS.--

A. The secretary may enter into cooperative agreements with the Pueblos of Acoma, Cochiti, Jemez, Isleta, Laguna, Nambe, Picuris, Pojoaque, Sandia, San Felipe, San Ildefonso, San Juan, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia and Zuni; the Jicarilla Apache Nation; the Mescalero Apache Tribe; and the nineteen pueblos acting collectively for the exchange of information and the reciprocal, joint or common enforcement, administration, collection, remittance and audit of gross receipts tax and cannabis excise tax revenues of the party jurisdictions.

B. Money collected by the department on behalf of a tribe in accordance with an agreement entered into pursuant to this section is not money of this state and shall be collected and disbursed in accordance with the terms of the agreement, notwithstanding any other provision of law.

C. The secretary is empowered to promulgate such rules and to establish such procedures as the secretary deems appropriate for the collection and disbursement of funds due a tribe and for the receipt of money collected by a tribe for the account of this state under the terms of a cooperative agreement entered into under the authority of this section, including procedures for identification of taxpayers or transactions that are subject only to the taxing authority of the tribe, taxpayers or transactions that are subject only to the taxing authority of this state and taxpayers or transactions that are subject to the taxing authority of both party jurisdictions.

D. Nothing in an agreement entered into pursuant to this section shall be construed as authorizing this state or a tribe to tax a person or transaction that federal law prohibits that government from taxing, authorizing a state or tribal court to assert jurisdiction over a person who is not otherwise subject to that court's jurisdiction or affecting any issue of the respective civil or criminal jurisdictions of this state or the tribe. Nothing in an agreement entered into pursuant to this section shall be construed as an assertion or an admission by either this state or a tribe that the taxes of one have precedence over the taxes of the other when a person or transaction is subject to the taxing authority of both governments. An agreement entered into

pursuant to this section shall be construed solely as an agreement between the two party governments and shall not alter or affect the government-to-government relations between this state and any other tribe.

E. As used in this section:

(1) "tribal" means of or pertaining to a tribe; and

(2) "tribe" means an Indian nation, tribe or pueblo located entirely in New Mexico."

SECTION 55. Section 9-16-4 NMSA 1978 (being Laws 1983, Chapter 297, Section 20, as amended) is amended to read:

"9-16-4. DEPARTMENT ESTABLISHED.--The "regulation and licensing department" is created in the executive branch. The department shall not be a cabinet department. The department shall consist of but not be limited to the following divisions:

A. the administrative services division;

B. the construction industries division;

C. the financial institutions division;

D. the securities division;

E. the manufactured housing division;

F. the alcoholic beverage control division; and

G. the cannabis control division."

SECTION 56. Section 9-16-6 NMSA 1978 (being Laws 1983, Chapter 297, Section 22, as amended) is amended to read:

"9-16-6. SUPERINTENDENT--DUTIES AND GENERAL POWERS.--

A. The superintendent is responsible to the governor for the operation of the department. It is the superintendent's duty to manage all operations of the department and to administer and enforce the laws with which the superintendent, the department or a division of the department is charged.

B. To perform the superintendent's duties, the superintendent has every power expressly enumerated in the laws, whether granted to the superintendent or the department or any division of the department, except where authority conferred upon any division is explicitly exempted from the superintendent's authority by statute. In accordance with these provisions, the superintendent shall:

(1) except as otherwise provided in the Regulation and Licensing Department Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as the superintendent deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units the superintendent deems will enable it

to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the superintendent's duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of law for whose administration or execution the superintendent is responsible and to enforce those orders and instructions by appropriate administrative action or actions in the courts;

(6) conduct research and studies that will improve the operations of the department and the provision of services to the residents of the state;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs, with the objective of improving the operations and efficiency of administration;

(8) prepare an annual budget of the department;

(9) provide administratively attached agencies assistance as necessary to:

(a) minimize or eliminate duplication of services and jurisdictional conflicts;

(b) coordinate activities and resolve problems of mutual concern; and

(c) provide implementation of licensure processes, budgeting, recordkeeping, procurement, contracting, hiring and supervision of staff and related administrative and clerical assistance for administratively attached agencies; and

(10) appoint, with the governor's consent, a "director" for each division. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the superintendent.

C. The superintendent may apply for and receive, with the governor's approval, in the name of the department any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

D. The superintendent may make and adopt such reasonable and procedural rules as may be necessary to carry out the duties of the department and its divisions; provided that where a licensing entity requires submission of fingerprints as part of the initial license application, and a licensee has provided fingerprints and the license has been

issued, the licensing entity shall not require a licensee to submit fingerprints again to renew the license, but a licensee shall submit to a background investigation if required; and provided further that the prohibition against requiring additional fingerprints shall not apply to the financial institutions division of the department when utilizing the nationwide multistate licensing system and registry.

E. No rule promulgated by the director of any division in carrying out the functions and duties of the department or a division shall be effective until approved by the superintendent, unless otherwise provided by statute. Unless otherwise provided by statute, all rules adopted, amended or repealed by the superintendent or the director of any division shall have notice provided and be conducted and filed in accordance with the State Rules Act."

SECTION 57. Section 24-16-12 NMSA 1978 (being Laws 2007, Chapter 20, Section 4, as amended) is amended to read:

"24-16-12. SMOKING-PERMITTED AREAS.--Notwithstanding any other provision of the Dee Johnson Clean Indoor Air Act, smoking-permitted areas include the following:

A. a private residence, unless it is used commercially to provide child care, adult care or health care or any combination of those activities;

B. a retail tobacco store; provided that, for a

retail tobacco store established on or after the effective date of this 2019 act, the store shall be located in a standalone building;

C. a cigar bar; provided that, for a cigar bar established on or after June 14, 2019, the bar shall be located in a standalone building;

D. the facilities of a tobacco manufacturing company licensed by the United States to manufacture tobacco products that are operated by the company in its own name and that are used exclusively by the company in its business of manufacturing, marketing or distributing its tobacco products; provided that secondhand smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited under the Dee Johnson Clean Indoor Air Act;

E. a state-licensed gaming facility, casino or bingo parlor;

F. designated outdoor smoking areas;

G. private clubs;

H. hotel and motel rooms that are rented to guests and are designated as smoking-permitted rooms; provided that not more than ten percent of rooms rented to guests in a hotel or motel may be so designated;

I. a site that is being used in connection with the practice of cultural or ceremonial activities by Native

Americans and that is in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a;

J. a theatrical stage or a motion picture or television production set when it is necessary for performers to smoke as part of the production; and

K. an indoor or outdoor cannabis consumption area pursuant to the Cannabis Regulation Act."

SECTION 58. Section 26-2B-3 NMSA 1978 (being Laws 2007, Chapter 210, Section 3, as amended) is amended to read:

"26-2B-3. DEFINITIONS.--As used in the Lynn and Erin Compassionate Use Act:

A. "adequate supply" means an amount of cannabis, in any form approved by the department, possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver that is determined by rule of the department to be no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of three months and that is derived solely from an intrastate source;

B. "cannabis":

(1) means all parts of the plant Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture,

salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; the sterilized seed of the plant that is incapable of germination; the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or another product; or hemp;

C. "cannabis extract":

(1) means a product obtained by separating resins from cannabis by solvent extraction using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol or carbon dioxide; and

(2) does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product;

D. "cannabis flowers" means only the flowers of a cannabis plant;

E. "cannabis product":

(1) means a product that contains cannabis, including edible or topical products that may also contain other ingredients; and

(2) does not include the weight of any other

ingredient combined with cannabis or cannabis extract to prepare topical or oral administrations, food, drink or another product;

F. "debilitating medical condition" means:

(1) cancer;

(2) glaucoma;

(3) multiple sclerosis;

(4) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity;

(5) seizure disorder, including epilepsy;

(6) positive status for human immunodeficiency virus or acquired immune deficiency syndrome;

(7) admitted into hospice care in accordance with rules promulgated by the department;

(8) amyotrophic lateral sclerosis;

(9) Crohn's disease;

(10) hepatitis C infection;

(11) Huntington's disease;

(12) inclusion body myositis;

(13) inflammatory autoimmune-mediated arthritis;

(14) intractable nausea or vomiting;

(15) obstructive sleep apnea;

(16) painful peripheral neuropathy;

(17) Parkinson's disease;

(18) posttraumatic stress disorder;

(19) severe chronic pain;

(20) severe anorexia or cachexia;

(21) spasmodic torticollis;

(22) ulcerative colitis; or

(23) any other medical condition, medical treatment or disease as approved by the department;

G. "department" means the department of health;

H. "division" means the cannabis control division of the regulation and licensing department;

I. "dry weight basis" means a process by which delta–9-tetrahydrocannabinol concentration is measured relative to the aggregate weight of all parts of the plant genus Cannabis, whether growing or not, including the leaves of the plant, the flowers and buds of the plant, the seeds of the plant, the resin of the plant and the stalks of the plant, at the point of harvest and with no moisture added to the harvested plant;

J. "hemp" means the plant genus Cannabis and any part of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis;

K. "medical cannabis program" means the program

established pursuant to the Lynn and Erin Compassionate Use Act for authorization and regulation of the medical use of cannabis in the state;

L. "practitioner" means a person licensed in New Mexico to prescribe and administer drugs that are subject to the Controlled Substances Act;

M. "primary caregiver" means a resident of New Mexico who is at least eighteen years of age and who has been designated by the patient's practitioner as being necessary to take responsibility for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the provisions of the Lynn and Erin Compassionate Use Act;

N. "qualified patient" means a resident of New Mexico who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification and a registry identification card pursuant to the Lynn and Erin Compassionate Use Act on the basis of having been diagnosed, in person or via telemedicine, by a practitioner as having a debilitating medical condition;

O. "reciprocal participant" means a person who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory

or commonwealth of the United States in which the person resides or a person who holds proof of enrollment by a governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program;

P. "registry identification card" means a document that the department issues:

(1) to a qualified patient that identifies the bearer as a qualified patient and authorizes the qualified patient to use cannabis for a debilitating medical condition; or

(2) to a primary caregiver that identifies the bearer as a primary caregiver authorized to engage in the intrastate possession and administration of cannabis for the sole use of a qualified patient who is identified on the document;

Q. "safety-sensitive position" means a position in which performance by a person under the influence of drugs or alcohol would constitute an immediate or direct threat of injury or death to that person or another;

R. "telemedicine" means the use of telecommunications and information technology to provide clinical health care from a site apart from the site where the patient is located, in real time or asynchronously, including the use of interactive simultaneous audio and video

or store-and-forward technology, or off-site patient monitoring and telecommunications in order to deliver health care services;

S. "THC" means delta-9-tetrahydrocannabinol, a substance that is the primary psychoactive ingredient in cannabis; and

T. "written certification" means a statement made on a department-approved form and signed by a patient's practitioner that indicates, in the practitioner's professional opinion, that the patient has a debilitating medical condition and the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient."

SECTION 59. Section 26-2B-4 NMSA 1978 (being Laws 2007, Chapter 210, Section 4, as amended) is amended to read:

"26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR THE MEDICAL USE OF CANNABIS.--

A. A qualified patient or a qualified patient's primary caregiver shall not be subject to arrest, prosecution or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis does not exceed an adequate supply; provided that a qualified patient or the qualified patient's primary caregiver may possess that qualified patient's harvest of cannabis.

B. A reciprocal participant shall not be subject

to arrest, prosecution or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis does not exceed the limit identified by department rule.

C. The following conduct is lawful and shall not constitute grounds for detention, search or arrest of a person or for a violation of probation or parole, and cannabis products that relate to the conduct are not contraband or subject to seizure or forfeiture pursuant to the Controlled Substances Act or the Forfeiture Act:

(1) a qualified patient or primary caregiver possessing or transporting not more than an adequate supply or a reciprocal participant possessing or transporting not more than the limit identified by department rule;

(2) a qualified patient or primary caregiver purchasing or obtaining not more than an adequate supply from a lawful source or a reciprocal participant purchasing or obtaining not more than the limit identified by department rule;

(3) a qualified patient or reciprocal participant using or being under the influence of cannabis; provided that the qualified patient or reciprocal participant is acting consistent with law; or

(4) a qualified patient, primary caregiver or reciprocal participant transferring, without financial

consideration, to a qualified patient, primary caregiver or reciprocal participant not more than two ounces of cannabis, sixteen grams of cannabis extract and eight hundred milligrams of edible cannabis.

D. Subsection A of this section shall not apply to a qualified patient under the age of eighteen years, unless:

(1) the qualified patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the qualified patient and to a parent, guardian or other person having legal custody of the qualified patient; and

(2) a parent, guardian or other person having legal custody consents in writing to:

(a) allow the qualified patient's medical use of cannabis;

(b) serve as the qualified patient's primary caregiver; and

(c) control the dosage and the frequency of the medical use of cannabis by the qualified patient.

E. A qualified patient or a primary caregiver shall be granted the full legal protections provided in this section if the qualified patient or primary caregiver is in possession of a registry identification card. If the qualified patient or primary caregiver is not in possession

of a registry identification card, the qualified patient or primary caregiver shall be given an opportunity to produce the registry identification card before any arrest or criminal charges or other penalties are initiated.

F. A practitioner shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege for recommending the medical use of cannabis or providing written certification for the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act.

G. Any property interest that is possessed, owned or used in connection with the medical use of cannabis, or acts incidental to such use, shall not be harmed, neglected, injured or destroyed while in the possession of state or local law enforcement officials. Such property interest shall not be forfeited under any state or local law providing for the forfeiture of property except as provided in the Forfeiture Act. Cannabis, paraphernalia or other property seized from a qualified patient, primary caregiver or reciprocal participant in connection with the claimed medical use of cannabis shall be returned immediately upon the determination by a court or prosecutor that the qualified patient, primary caregiver or reciprocal participant is entitled to the protections of the provisions of the Lynn and Erin Compassionate Use Act, as may be evidenced by a failure to actively investigate the case, a decision not to

prosecute, the dismissal of charges or acquittal.

H. A person shall not be subject to arrest or prosecution for a cannabis-related offense for simply being in the presence of the medical use of cannabis as allowed under the provisions of the Lynn and Erin Compassionate Use Act."

SECTION 60. Section 26-2B-5 NMSA 1978 (being Laws 2007, Chapter 210, Section 5, as amended by Laws 2019, Chapter 247, Section 5 and by Laws 2019, Chapter 261, Section 2) is amended to read:

"26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

A. Participation in a medical use of cannabis program by a qualified patient, primary caregiver or reciprocal participant does not relieve the qualified patient, primary caregiver or reciprocal participant from:

(1) criminal prosecution or civil penalties for activities not authorized in the Lynn and Erin Compassionate Use Act;

(2) liability for damages or criminal prosecution arising out of the operation of a vehicle while under the influence of cannabis; or

(3) criminal prosecution or civil penalty for possession or use of cannabis:

(a) in the workplace of the qualified

patient's, primary caregiver's or reciprocal participant's employment; or

(b) at a public park, recreation center, youth center or other public place.

B. A person who makes a fraudulent representation to a law enforcement officer about the person's participation in a medical use of cannabis program to avoid arrest or prosecution for a cannabis-related offense is guilty of a petty misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

SECTION 61. Section 26-2B-6.1 NMSA 1978 (being Laws 2019, Chapter 247, Section 8) is amended to read:

"26-2B-6.1. ASSESSMENT REPORTING.--In consultation with qualified patients and primary caregivers, the department shall produce an assessment report annually, which shall be published to the public and that includes at a minimum an evaluation of:

A. the affordability of and accessibility to medical cannabis pursuant to the Lynn and Erin Compassionate Use Act; and

B. the needs of qualified patients who live in rural areas, federal subsidized housing or New Mexico Indian nations, tribes or pueblos."

SECTION 62. Section 26-2B-7 NMSA 1978 (being Laws 2007, Chapter 210, Section 7, as amended) is amended to read:

"26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT RULES--DUTIES--RECIPROCITY.--

A. After consultation with the advisory board, the department shall promulgate rules in accordance with the State Rules Act to implement the purpose of the Lynn and Erin Compassionate Use Act. The rules shall:

(1) govern the manner in which the department will consider applications for registry identification cards and for the renewal of identification cards for qualified patients and primary caregivers;

(2) define the amount of cannabis that is necessary to constitute an adequate supply, including amounts for topical treatments;

(3) identify criteria and set forth procedures for including additional medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis. Procedures shall include a petition process and shall allow for public comment and public hearings before the advisory board;

(4) set forth additional medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis as recommended by the advisory board;

(5) determine additional duties and

responsibilities of the advisory board; and

(6) be revised and updated as necessary.

B. The department shall issue registry identification cards to a patient and to the primary caregiver for that patient, if any, who submit the following, in accordance with the department's rules:

(1) a written certification;

(2) the name, address and date of birth of the patient;

(3) the name, address and telephone number of the patient's practitioner; and

(4) the name, address and date of birth of the patient's primary caregiver, if any.

C. The department shall verify the information contained in an application submitted pursuant to Subsection B of this section and shall approve or deny an application within thirty days of receipt. The department may deny an application only if the applicant did not provide the information required pursuant to Subsection B of this section or if the department determines that the information provided is false. A person whose application has been denied shall not reapply for six months from the date of the denial unless otherwise authorized by the department.

D. The department shall issue a registry identification card within five days of approving an

application, and a card shall expire three years after the date of issuance.

E. A registry identification card shall contain:

(1) the name and date of birth of the qualified patient and primary caregiver, if any;

(2) the date of issuance and expiration date of the registry identification card; and

(3) other information that the department may require by rule.

F. A person who possesses a registry identification card shall notify the department of any change in the person's name, qualified patient's practitioner, qualified patient's primary caregiver or change in status of the qualified patient's debilitating medical condition within ten days of the change.

G. Possession of or application for a registry identification card shall not constitute probable cause or give rise to reasonable suspicion for a governmental agency to search the person or property of the person possessing or applying for the card.

H. The department shall maintain a confidential file containing the names and addresses of the persons who have either applied for or received a registry identification card. Individual names on the list shall be confidential and not subject to disclosure, except:

(1) to authorized employees or agents of the department as necessary to perform the duties of the department pursuant to the provisions of the Lynn and Erin Compassionate Use Act;

(2) to authorized employees of state or local law enforcement agencies, but only for the purpose of verifying that a person is lawfully in possession of a registry identification card;

(3) to the division; or

(4) as provided in the federal Health Insurance Portability and Accountability Act of 1996.

I. By March 1, 2020, the secretary of health shall adopt and promulgate rules relating to medical cannabis program reciprocity. The department may identify requirements for the granting of reciprocity, including provisions limiting the period of time in which a reciprocal participant may participate in the medical cannabis program.

J. A reciprocal participant:

(1) may participate in the medical cannabis program in accordance with department rules;

(2) shall not be required to comply with the registry identification card application and renewal requirements established pursuant to this section and department rules;

(3) shall at all times possess proof of

authorization to participate in the medical cannabis program of another state, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo and shall present proof of that authorization when purchasing cannabis from a person licensed pursuant to the Cannabis Regulation Act; and

(4) shall register with a person licensed pursuant to the Cannabis Regulation Act for the purpose of tracking sales to the reciprocal participant in an electronic system that is accessible to the department."

SECTION 63. Section 30-31-2 NMSA 1978 (being Laws 1972, Chapter 84, Section 2, as amended) is amended to read:

"30-31-2. DEFINITIONS.--As used in the Controlled Substances Act:

A. "administer" means the direct application of a controlled substance by any means to the body of a patient or research subject by a practitioner or the practitioner's agent;

B. "agent" includes an authorized person who acts on behalf of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseperson or employee of the carrier or warehouseperson;

C. "board" means the board of pharmacy;

D. "bureau" means the narcotic and dangerous drug

section of the criminal division of the United States department of justice, or its successor agency;

E. "controlled substance" means a drug or substance listed in Schedules I through V of the Controlled Substances Act or rules adopted thereto;

F. "counterfeit substance" means a controlled substance that bears the unauthorized trademark, trade name, imprint, number, device or other identifying mark or likeness of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the controlled substance;

G. "deliver" means the actual, constructive or attempted transfer from one person to another of a controlled substance or controlled substance analog, whether or not there is an agency relationship;

H. "dispense" means to deliver a controlled substance to an ultimate user or research subject pursuant to the lawful order of a practitioner, including the administering, prescribing, packaging, labeling or compounding necessary to prepare the controlled substance for that delivery;

I. "dispenser" means a practitioner who dispenses and includes hospitals, pharmacies and clinics where controlled substances are dispensed;

J. "distribute" means to deliver other than by

administering or dispensing a controlled substance or controlled substance analog;

K. "drug" or "substance" means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to those publications. It does not include devices or their components, parts or accessories;

L. "manufacture" means the production, preparation, compounding, conversion or processing of a controlled substance or controlled substance analog by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance:

(1) by a practitioner as an incident to administering or dispensing a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's agent under the practitioner's supervision, for the purpose of or as an incident to research, teaching or chemical analysis and not for sale;

M. "narcotic drug" means any of the following,

whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation that is a chemical equivalent of any of the substances referred to in Paragraph (1) of this subsection, except the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw, including all parts of the plant of the species Papaver somniferum L. except its seeds; or

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, any salt, compound, isomer, derivative or preparation that is a chemical equivalent of any of these substances except decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine;

N. "opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. "Opiate" does not include, unless specifically designated as controlled under Section 30-31-5 NMSA 1978, the

dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts, dextromethorphan. "Opiate" does include its racemic and levorotatory forms;

O. "person" means an individual, partnership, corporation, association, institution, political subdivision, government agency or other legal entity;

P. "practitioner" means a physician, certified advanced practice chiropractic physician, doctor of oriental medicine, dentist, physician assistant, certified nurse practitioner, clinical nurse specialist, certified nurse-midwife, prescribing psychologist, veterinarian, euthanasia technician, pharmacist, pharmacist clinician or other person licensed or certified to prescribe and administer drugs that are subject to the Controlled Substances Act;

Q. "prescription" means an order given individually for the person for whom is prescribed a controlled substance, either directly from a licensed practitioner or the practitioner's agent to the pharmacist, including by means of electronic transmission, or indirectly by means of a written order signed by the prescriber, bearing the name and address of the prescriber, the prescriber's license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue and in accordance with the Controlled Substances Act or rules adopted thereto;

R. "scientific investigator" means a person registered to conduct research with controlled substances in the course of the person's professional practice or research and includes analytical laboratories;

S. "ultimate user" means a person who lawfully possesses a controlled substance for the person's own use or for the use of a member of the person's household or for administering to an animal under the care, custody and control of the person or by a member of the person's household;

T. "drug paraphernalia" means, except as to use in accordance with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, all equipment, products and materials of any kind that are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog in violation of the Controlled Substances Act. It includes:

(1) kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled

substance or controlled substance analog or from which a controlled substance can be derived;

(2) kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs;

(3) isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant that is a controlled substance;

(4) testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances or controlled substance analogs;

(5) scales or balances used, intended for use or designed for use in weighing or measuring controlled substances or controlled substance analogs;

(6) diluents and adulterants, such as quinine hydrochloride, mannitol, mannite dextrose and lactose, used, intended for use or designed for use in cutting controlled substances or controlled substance analogs;

(7) blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or controlled substance analogs;

(8) capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances or controlled substance analogs;

(9) containers and other objects used, intended for use or designed for use in storing or concealing controlled substances or controlled substance analogs;

(10) hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances or controlled substance analogs into the human body;

(11) objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing cocaine into the human body, such as:

(a) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) miniature cocaine spoons and cocaine vials;

(f) chamber pipes;

(g) carburetor pipes;

(h) electric pipes;

(i) air-driven pipes;

(j) chilams;

(k) bongs; or

(l) ice pipes or chillers; and

(12) in determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) statements by the owner or by anyone in control of the object concerning its use;

(b) the proximity of the object, in time and space, to a direct violation of the Controlled Substances Act or any other law relating to controlled substances or controlled substance analogs;

(c) the proximity of the object to controlled substances or controlled substance analogs;

(d) the existence of any residue of a controlled substance or controlled substance analog on the object;

(e) instructions, written or oral, provided with the object concerning its use;

(f) descriptive materials accompanying the object that explain or depict its use;

(g) the manner in which the object is displayed for sale; and

(h) expert testimony concerning its use;

U. "controlled substance analog" means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in Schedule I, II, III, IV or V or that was specifically designed to produce effects substantially similar to that of controlled substances in Schedule I, II, III, IV or V. Examples of chemical classes in which controlled substance analogs are found:

(1) include:

(a) phenethylamines;

(b) N-substituted piperidines;

(c) morphinans;

(d) ecgonines;

(e) quinazolinones;

(f) substituted indoles; and

(g) arylcycloalkylamines; and

(2) do not include those substances that are generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act or have been manufactured, distributed or possessed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of Section 505 of the Federal Food, Drug, and Cosmetic Act;

V. "human consumption" includes application, injection, inhalation, ingestion or any other manner of introduction;

W. "drug-free school zone" means a public school, parochial school or private school or property that is used for a public, parochial or private school purpose and the area within one thousand feet of the school property line, but it does not mean any post-secondary school; and

X. "valid practitioner-patient relationship" means a professional relationship, as defined by the practitioner's licensing board, between the practitioner and the patient."

SECTION 64. Section 30-31-6 NMSA 1978 (being Laws 1972, Chapter 84, Section 6, as amended) is amended to read:

"30-31-6. SCHEDULE I.--The following controlled substances are included in Schedule I:

A. any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically exempted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) acetylmethadol;

(2) allylprodine;

(3) alphacetylmethadol;

(4) alphameprodine;

(5) alphamethadol;

(6) benzethidine;

(7) betacetylmethadol;

(8) betameprodine;

(9) betamethadol;

(10) betaprodine;

(11) clonitazene;

(12) dextromoramide;

(13) dextrorphan;

(14) diampromide;

(15) diethylthiambutene;

(16) dimenoxadol;

(17) dimepheptanol;

(18) dimethylthiambutene;

(19) dioxaphetyl butyrate;

(20) dipipanone;

(21) ethylmethylthiambutene;

(22) etonitazene;

(23) etoxeridine;

(24) furethidine;

(25) hydroxypethidine;

(26) ketobemidone;

(27) levomoramide;

(28) levophenacylmorphan;

(29) morpheridine;

(30) noracymethadol;

(31) norlevorphanol;

(32) normethadone;

(33) norpipanone;

(34) phenadoxone;

(35) phenampromide;

(36) phenomorphan;

(37) phenoperidine;

(38) piritramide;

(39) proheptazine;

(40) properidine;

(41) racemoramide; and

(42) trimeperidine;

B. any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically exempted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) acetorphine;

(2) acetyldihydrocodeine;

(3) benzylmorphine;

(4) codeine methylbromide;

(5) codeine-N-oxide;

(6) cyprenorphine;

(7) desomorphine;

(8) dihydromorphine;

(9) etorphine;

(10) heroin;

(11) hydromorphinol;

(12) methyldesorphine;

(13) methyldihydromorphine;

(14) morphine methylbromide;

(15) morphine methylsulfonate;

(16) morphine-N-oxide;

(17) myrophine;

(18) nicocodeine;

(19) nicomorphine;

(20) normorphine;

(21) pholcodine; and

(22) thebacon;

C. any material, compound, mixture or preparation that contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically exempted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine;

(2) 5-methoxy-3,4-methylenedioxy amphetamine;

(3) 3,4,5-trimethoxy amphetamine;

(4) bufotenine;

(5) diethyltryptamine;

(6) dimethyltryptamine;

(7) 4-methyl-2,5-dimethoxy amphetamine;

(8) ibogaine;

(9) lysergic acid diethylamide;

(10) mescaline;

(11) peyote, except as otherwise provided in the Controlled Substances Act;

(12) N-ethyl-3-piperidyl benzilate;

(13) N-methyl-3-piperidyl benzilate;

(14) psilocybin;

(15) psilocyn;

(16) synthetic cannabinoids, including:

(a) 1-[2-(4-(morpholinyl)ethyl] -3-(1-naphthoyl)indole;

(b) 1-butyl-3-(1-napthoyl)indole;

(c) 1-hexyl-3-(1-naphthoyl)indole;

(d) 1-pentyl-3-(1-naphthoyl)indole;

(e) 1-pentyl-3-(2-methoxyphenylacetyl) indole;

(f) cannabicyclohexanol (CP 47, 497 and homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S) -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1, 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;

(g) 6aR,10aR)-9-(hydroxymethyl)

-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,
10a-tetrahydrobenzo[c]chromen-1-ol);

(h) dexanabinol, (6aS,10aS)
-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)
-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

(i) 1-pentyl-3-(4-chloro naphthoyl)
indole;

(j) (2-methyl-1-propyl-1H-indol-3-yl)
-1-naphthalenyl-methanone; and

(k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy
cyclohexyl)-phenol;

(17) 3,4-methylenedioxymethcathinone;

(18) 3,4-methylenedioxypyrovalerone;

(19) 4-methylmethcathinone;

(20) 4-methoxymethcathinone;

(21) 3-fluoromethcathinone; and

(22) 4-fluoromethcathinone;

D. the enumeration of peyote as a controlled
substance does not apply to the use of peyote in bona fide
religious ceremonies by a bona fide religious organization,
and members of the organization so using peyote are exempt
from registration. Any person who manufactures peyote for or
distributes peyote to the organization or its members shall
comply with the federal Comprehensive Drug Abuse Prevention
and Control Act of 1970 and all other requirements of law;

E. the enumeration of Schedule I controlled substances does not apply to:

(1) hemp pursuant to rules promulgated by the board of regents of New Mexico state university on behalf of the New Mexico department of agriculture;

(2) cultivation of hemp by persons pursuant to rules promulgated by the board of regents of New Mexico state university on behalf of the New Mexico department of agriculture;

(3) tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols, including tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols with concentrations of up to five percent as measured using a post-decarboxylation method and based on percentage dry weight, possessed by a person in connection with the cultivation, transportation, testing, researching, manufacturing or other processing of the plant Cannabis sativa L., or any part of the plant whether growing or not, if authorized pursuant to rules promulgated, pursuant to the Hemp Manufacturing Act, by the board of regents of New Mexico state university on behalf of the New Mexico department of agriculture or the department of environment; or

(4) tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols, including

tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols in any concentration possessed by a person in connection with the extraction of tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols, if authorized pursuant to rules promulgated, pursuant to the Hemp Manufacturing Act, by the board of regents of New Mexico state university on behalf of the New Mexico department of agriculture or the department of environment; and

F. controlled substances added to Schedule I by rule adopted by the board pursuant to Section 30-31-3 NMSA 1978."

SECTION 65. Section 30-31-7 NMSA 1978 (being Laws 1972, Chapter 84, Section 7, as amended) is amended to read:

"30-31-7. SCHEDULE II.--

A. The following controlled substances are included in Schedule II:

(1) any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative or preparation of opium or opiate;

(b) any salt, compound, isomer, derivative or preparation thereof that is chemically equivalent or identical with any of the substances referred to in Subparagraph (a) of this paragraph, but not including the isoquinoline alkaloids of opium;

(c) opium poppy and poppy straw; and

(d) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, derivative or preparation thereof that is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions that do not contain cocaine or ecgonine;

(2) any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) alphaprodine;

(b) anileridine;

(c) bezitramide;

(d) dihydrocodeine;

(e) diphenoxylate;

(f) fentanyl;

(g) hydromorphone;

(h) isomethadone;

(i) levomethorphan;

(j) levorphanol;

(k) meperidine;

(l) metazocine;

(m) methadone;

(n) methadone--intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(o) moramide--intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

(p) oxycodone;

(q) pethidine;

(r) pethidine--intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine;

(s) pethidine--intermediate--B, ethyl-4-phenyl-piperidine-4-carboxylate;

(t) pethidine--intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(u) phenazocine;

(v) piminodine;

(w) racemethorphan; and

(x) racemorphan;

(3) unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) amphetamine, its salts, optical isomers and salts of its optical isomers;

(b) phenmetrazine and its salts;

(c) methamphetamine, its salts, isomers and salts of isomers; and

(d) methylphenidate; and

(4) controlled substances added to Schedule II by rule adopted by the board pursuant to Section 30-31-3 NMSA 1978.

B. Where methadone is prescribed, administered or dispensed by a practitioner of a drug abuse rehabilitation program while acting in the course of the practitioner's professional practice, or otherwise lawfully obtained or possessed by a person, such person shall not possess such methadone beyond the date stamped or typed on the label of the container of the methadone, nor shall any person possess methadone except in the container in which it was originally administered or dispensed to such person, and such container shall include a label showing the name of the prescribing physician or practitioner, the identity of methadone, the name of the ultimate user, the date when the methadone is to be administered to or used or consumed by the named ultimate user shown on the label and a warning on the label of the methadone container that the ultimate user must use, consume or administer to the ultimate user the methadone in such

container. Any person who violates this subsection is guilty of a felony and shall be punished by imprisonment for not less than one year nor more than five years, or by a fine of up to five thousand dollars ($5,000), or both."

SECTION 66. Section 30-31-21 NMSA 1978 (being Laws 1972, Chapter 84, Section 21, as amended) is amended to read:

"30-31-21. DISTRIBUTION TO A MINOR.--Except as authorized by the Controlled Substances Act, no person who is eighteen years of age or older shall intentionally distribute a controlled substance to a person under the age of eighteen years. Any person who violates this section with respect to a controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of any controlled substance enumerated in Schedule I, II, III or IV is:

(1) for the first offense, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(2) for the second and subsequent offenses, guilty of a first degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

SECTION 67. Section 30-31-22 NMSA 1978 (being Laws 1972, Chapter 84, Section 22, as amended) is amended to read:

"30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--DISTRIBUTION PROHIBITED.--

A. Except as authorized by the Controlled

Substances Act, it is unlawful for a person to intentionally distribute or possess with intent to distribute a controlled substance or a controlled substance analog except a substance enumerated in Schedule I or II that is a narcotic drug, a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug or methamphetamine, its salts, isomers and salts of isomers. A person who violates this subsection with respect to:

(1) synthetic cannabinoids is:

(a) for the first offense, guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(b) for the second and subsequent offenses, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(c) for the first offense, if more than one hundred pounds is possessed with intent to distribute or distributed or both, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(d) for the second and subsequent offenses, if more than one hundred pounds is possessed with intent to distribute or distributed or both, guilty of a second degree felony and shall be sentenced pursuant to the

provisions of Section 31-18-15 NMSA 1978;

(2) any other controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a controlled substance enumerated in Schedule I, II, III or IV except a substance enumerated in Schedule I or II that is a narcotic drug, a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug or methamphetamine, its salts, isomers and salts of isomers, is:

(a) for the first offense, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(b) for the second and subsequent offenses, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(3) a controlled substance enumerated in Schedule V or a controlled substance analog of a controlled substance enumerated in Schedule V is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than five hundred dollars ($500) or by imprisonment for a definite term not less than one hundred eighty days but less than one year, or both.

B. It is unlawful for a person to distribute gamma hydroxybutyric acid or flunitrazepam to another person

without that person's knowledge and with intent to commit a crime against that person, including criminal sexual penetration. For the purposes of this subsection, "without that person's knowledge" means the person is unaware that a substance with the ability to alter that person's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is being distributed to that person. Any person who violates this subsection is:

(1) for the first offense, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(2) for the second and subsequent offenses, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

C. Except as authorized by the Controlled Substances Act, it is unlawful for a person to intentionally create or deliver, or possess with intent to deliver, a counterfeit substance. A person who violates this subsection with respect to:

(1) a counterfeit substance enumerated in Schedule I, II, III or IV is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(2) a counterfeit substance enumerated in

Schedule V is guilty of a petty misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100) or by imprisonment for a definite term not to exceed six months, or both.

D. A person who knowingly violates Subsection A or C of this section while within a drug-free school zone with respect to:

(1) synthetic cannabinoids is:

(a) for the first offense, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(b) for the second and subsequent offenses, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(c) for the first offense, if more than one hundred pounds is possessed with intent to distribute or distributed or both, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(d) for the second and subsequent offenses, if more than one hundred pounds is possessed with intent to distribute or distributed or both, guilty of a first degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(2) any other controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a controlled substance enumerated in Schedule I, II, III or IV except a substance enumerated in Schedule I or II that is a narcotic drug, a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug or methamphetamine, its salts, isomers and salts of isomers, is:

(a) for the first offense, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(b) for the second and subsequent offenses, guilty of a first degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(3) a controlled substance enumerated in Schedule V or a controlled substance analog of a controlled substance enumerated in Schedule V is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(4) the intentional creation, delivery or possession with the intent to deliver:

(a) a counterfeit substance enumerated in Schedule I, II, III or IV is guilty of a third degree felony and shall be sentenced pursuant to the provisions of

Section 31-18-15 NMSA 1978; and

(b) a counterfeit substance enumerated in Schedule V is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or by imprisonment for a definite term not less than one hundred eighty days but less than one year, or both.

E. Notwithstanding the provisions of Subsection A of this section, distribution of a small amount of synthetic cannabinoids for no remuneration shall be treated as provided in Paragraph (1) of Subsection B of Section 30-31-23 NMSA 1978."

SECTION 68. Section 30-31-23 NMSA 1978 (being Laws 1972, Chapter 84, Section 23, as amended) is amended to read:

"30-31-23. CONTROLLED SUBSTANCES--POSSESSION PROHIBITED.--

A. It is unlawful for a person intentionally to possess a controlled substance unless the substance was obtained pursuant to a valid prescription or order of a practitioner while acting in the course of professional practice or except as otherwise authorized by the Controlled Substances Act. It is unlawful for a person intentionally to possess a controlled substance analog.

B. A person who violates this section with respect to:

(1) one ounce or less of synthetic cannabinoids is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars ($50.00) or more than one hundred dollars ($100) and by imprisonment for not more than fifteen days, and, for the second and subsequent offenses, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both;

(2) more than one ounce and less than eight ounces of synthetic cannabinoids is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both; or

(3) eight ounces or more of synthetic cannabinoids is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

C. A minor who violates this section with respect to the substances listed in this subsection is guilty of a petty misdemeanor and, notwithstanding the provisions of Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be required to perform no more than forty-eight hours of community service.

For the third or subsequent violation by a minor of this section with respect to those substances, the provisions of Section 32A-2-19 NMSA 1978 shall govern punishment of the minor. As used in this subsection, "minor" means a person who is less than eighteen years of age. The provisions of this subsection apply to the following substances:

(1) synthetic cannabinoids;

(2) any of the substances listed in Paragraphs (17) through (22) of Subsection C of Section 30-31-6 NMSA 1978; or

(3) a substance added to Schedule I by a rule of the board adopted on or after March 31, 2011 if the board determines that the pharmacological effect of the substance, the risk to the public health by abuse of the substance and the potential of the substance to produce psychic or physiological dependence liability is similar to the substances described in Paragraph (1) or (2) of this subsection.

D. Except as provided in Subsections B and F of this section, and for those substances listed in Subsection E of this section, a person who violates this section with respect to any amount of any controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a substance enumerated in Schedule I, II, III or IV is guilty of a misdemeanor and shall be punished by a fine of

not less than five hundred dollars ($500) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both.

E. A person who violates this section with respect to phencyclidine as enumerated in Schedule III or a controlled substance analog of phencyclidine; methamphetamine, its salts, isomers or salts of isomers as enumerated in Schedule II or a controlled substance analog of methamphetamine, its salts, isomers or salts of isomers; flunitrazepam, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of flunitrazepam, including naturally occurring metabolites, its salts, isomers or salts of isomers; gamma hydroxybutyric acid and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of gamma hydroxybutyric acid, its salts, isomers or salts of isomers; gamma butyrolactone and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of gamma butyrolactone, its salts, isomers or salts of isomers; 1-4 butane diol and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule

I or a controlled substance analog of 1-4 butane diol, its salts, isomers or salts of isomers; or a narcotic drug enumerated in Schedule I or II or a controlled substance analog of a narcotic drug enumerated in Schedule I or II is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

F. Except for a minor as provided in Subsection C of this section, a person who violates Subsection A of this section while within a posted drug-free school zone, excluding private property residentially zoned or used primarily as a residence and excluding a person in or on a motor vehicle in transit through the posted drug-free school zone, with respect to:

(1) one ounce or less of synthetic cannabinoids is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both, and for the second or subsequent offense, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(2) more than one ounce and less than eight ounces of synthetic cannabinoids is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(3) eight ounces or more of synthetic cannabinoids is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(4) any amount of any other controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a substance enumerated in Schedule I, II, III or IV, except phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II or a controlled substance analog of a narcotic drug enumerated in Schedule I or II, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(5) phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II, a controlled substance analog of phencyclidine or a controlled substance analog of a narcotic drug enumerated in Schedule I or II is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

SECTION 69. Section 30-31-34 NMSA 1978 (being Laws 1972, Chapter 84, Section 33, as amended) is amended to read:

"30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following are subject to forfeiture pursuant to the provisions of the Forfeiture Act:

A. all raw materials, products and equipment of any kind, including firearms that are used or intended for use in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance or controlled substance analog in violation of the Controlled Substances Act;

B. all property that is used or intended for use as a container for property described in Subsection A of this section;

C. all conveyances, including aircraft, vehicles or vessels that are used or intended for use to transport or in any manner to facilitate the transportation for the purpose of sale of property described in Subsection A of this section;

D. all books, records and research products and materials, including formulas, microfilm, tapes and data that are used or intended for use in violation of the Controlled Substances Act;

E. narcotics paraphernalia or money that is a fruit or instrumentality of the crime;

F. notwithstanding Subsection C of this section and the provisions of the Forfeiture Act:

(1) a conveyance used by a person as a common carrier in the transaction of business as a common carrier shall not be subject to forfeiture pursuant to this

section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of the Controlled Substances Act;

(2) a conveyance shall not be subject to forfeiture pursuant to this section by reason of an act or omission established for the owner to have been committed or omitted without the owner's knowledge or consent;

(3) a conveyance is not subject to forfeiture for a violation of law the penalty for which is a misdemeanor; and

(4) a forfeiture of a conveyance encumbered by a bona fide security interest shall be subject to the interest of a secured party if the secured party neither had knowledge of nor consented to the act or omission; and

G. all drug paraphernalia as defined by Subsection T of Section 30-31-2 NMSA 1978."

SECTION 70. TEMPORARY PROVISION--TRANSFER--FUNCTIONS, PERSONNEL, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES--MEDICAL CANNABIS FUND--RULES.--

A. On the effective date of this act, all functions, personnel, money, appropriations, records, furniture, equipment and other property of the department of health's medical cannabis program that are not part of the department's medical cannabis registry powers and duties shall be transferred to the regulation and licensing

department.

B. On the effective date of this act, all contractual obligations and other agreements of the department of health as they pertain to the department's medical cannabis program that are not part of the department's medical cannabis registry powers and duties are binding on the regulation and licensing department.

C. Statutory references to the department of health that pertain to the department's medical cannabis program that are not part of the department's medical cannabis registry powers and duties shall be deemed to be references to the cannabis control division of the regulation and licensing department.

D. On the effective date of this act, any unexpended or unencumbered balance in the medical cannabis fund is transferred to the cannabis regulation fund.

E. Except to the extent any administrative rules are inconsistent with the provisions of this act, any administrative rules adopted by an officer, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of the rules has been transferred. To the extent any administrative rules are inconsistent with the provisions

of this act, such rules are null and void.

SECTION 71. TEMPORARY PROVISION--STUDY--REPORT.--

A. The legislative finance committee shall study the fiscal and economic impacts of the Cannabis Regulation Act for fiscal years 2023 through 2027 and provide a report to the revenue stabilization and tax policy committee on or before December 1, 2027.

B. The report shall include:

(1) the impacts on budgets and staffing of the regulation and licensing department and the department of health;

(2) the impacts on general fund revenue and expenses;

(3) the impacts on potential funds created by the Cannabis Regulation Act;

(4) the impacts on the medical cannabis program;

(5) the impacts on local and state law enforcement; and

(6) the economic impact on the state, including:

(a) job creation;

(b) tourism; and

(c) other economic impacts.

SECTION 72. REPEAL.--Section 9-7-17.1 NMSA 1978 (being

Laws 2012, Chapter 42, Section 1) is repealed.

SECTION 73. DELAYED REPEAL.--Section 40 of this act is repealed effective December 31, 2025.

Appendix F: Senate Bill 2: Expungement of Certain Criminal Records

AN ACT

RELATING TO CRIMINAL RECORDS; PROVIDING FOR EXPUNGEMENT OF ARREST AND CONVICTION RECORDS FOR CERTAIN CANNABIS OFFENSES; PROVIDING FOR DISMISSAL OF SENTENCES OF INCARCERATED PERSONS; REVISING THE LIST OF CRIMINAL RECORDS THAT CANNOT BE CONSIDERED IN AN APPLICATION FOR PUBLIC EMPLOYMENT, LICENSURE OR OTHER AUTHORITY TO PRACTICE A TRADE, BUSINESS OR PROFESSION; AMENDING THE CRIMINAL RECORD EXPUNGEMENT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 28-2-3 NMSA 1978 (being Laws 1974, Chapter 78, Section 3, as amended) is amended to read:

"28-2-3. EMPLOYMENT ELIGIBILITY DETERMINATION.--

A. Subject to the provisions of Subsection B of this section and Sections 28-2-4 and 28-2-5 NMSA 1978, in determining eligibility for employment with the state or any of its political subdivisions or for a license, permit, certificate or other authority to engage in any regulated trade, business or profession, the board or other department or agency having jurisdiction may take into consideration a conviction, but the conviction shall not operate as an automatic bar to obtaining public employment or license or other authority to practice the trade, business or profession. A board, department or agency of the state or any of its political subdivisions shall not make an inquiry

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regarding a conviction on an initial application for employment and shall only take into consideration a conviction after the applicant has been selected as a finalist for the position.

B. The following criminal records shall not be used, distributed or disseminated in connection with an application for any public employment, license or other authority:

(1) records of arrest not followed by a valid conviction;

(2) convictions that have been sealed, dismissed, expunged or pardoned;

(3) juvenile adjudications; or

(4) convictions for a crime that is not job-related for the position in question and consistent with business necessity."

SECTION 2. Section 28-2-4 NMSA 1978 (being Laws 1974, Chapter 78, Section 4, as amended by Laws 1997, Chapter 238, Section 5 and also by Laws 1997, Chapter 251, Section 1) is amended to read:

"28-2-4. POWER TO REFUSE, RENEW, SUSPEND OR REVOKE PUBLIC EMPLOYMENT OR LICENSE.--

A. Any board or other agency having jurisdiction over employment by the state or any of its political subdivisions or the practice of any trade, business or

profession may refuse to grant or renew or may suspend or revoke any public employment or license or other authority to engage in the public employment, trade, business or profession for one or both of the following causes:

(1) where the applicant, employee or licensee has been convicted of a felony and the criminal conviction directly relates to the particular employment, trade, business or profession; and

(2) where the applicant, employee or licensee has been convicted of homicide, kidnapping, human trafficking, trafficking in controlled substances, criminal sexual penetration or related sexual offenses or child abuse and the applicant, employee or licensee has applied for reinstatement, renewal or issuance of a teaching certificate, a license to operate a child-care facility or employment at a child-care facility, regardless of rehabilitation.

B. The board or other agency shall explicitly state in writing the reasons for a decision that prohibits the person from engaging in the employment, trade, business or profession if the decision is based in whole or in part on conviction of any crime described in Paragraphs (1) and (2) of Subsection A of this section."

SECTION 3. Section 29-3A-1 NMSA 1978 (being Laws 2019, Chapter 203, Section 1) is amended to read:

"29-3A-1. SHORT TITLE.--Chapter 29, Article 3A NMSA

1978 may be cited as the "Criminal Record Expungement Act"."

SECTION 4. Section 29-3A-4 NMSA 1978 (being Laws 2019, Chapter 203, Section 4) is amended to read:

"29-3A-4. EXPUNGEMENT OF RECORDS UPON RELEASE WITHOUT CONVICTION.--

A. One year from the date of the final disposition in the case, a person released without conviction for a violation of a municipal ordinance, misdemeanor, felony, penalty assessments under the Criminal Code and the Motor Vehicle Code or violations and deferred sentences under the Motor Vehicle Code may petition the district court in the district in which the charges against the person originated for an order to expunge arrest records and public records related to that case.

B. A petitioner shall provide notice by first-class United States mail of the filed petition to the following parties, which parties shall be given thirty days in which to provide to the district court any objections to the petition:

(1) the district attorney for that district; and

(2) the department of public safety.

C. A single petition filed pursuant to Subsection A of this section may include a request to expunge multiple arrest records and public records that originated within the

jurisdiction of a district. A petition shall be filed under seal or under pseudonym. Petitions brought pursuant to the Criminal Record Expungement Act and all records of proceedings thereunder shall be expunged upon the conclusion of proceedings. The petitioner shall attach to and file with the petition copies of the petitioner's record of arrest and prosecutions from the department of public safety dated no earlier than ninety days prior to the date the petition is filed.

D. A party that seeks to object to a petition on the basis of the contents of a petitioner's record of arrest and prosecutions from the federal bureau of investigation must provide a copy of that record to a petitioner at no charge at the time the party objects.

E. After a hearing on the petition, the court shall issue an order within thirty days of the hearing requiring that all arrest records and public records related to the case be expunged if it finds that no other charge or proceeding is pending against the petitioner and if the petitioner was released without a conviction, including:

(1) an acquittal or finding of not guilty;

(2) a nolle prosequi, a no bill or other dismissal;

(3) a referral to a preprosecution diversion program;

(4) an order of conditional discharge pursuant to Section 31-20-13 NMSA 1978; or

(5) the proceedings were otherwise discharged.

F. The court shall cause a copy of the order to be delivered to all relevant law enforcement agencies and courts. The order shall prohibit all relevant law enforcement agencies and courts from releasing copies of the records to any person, except upon order of the court."

SECTION 5. A new section of the Criminal Record Expungement Act is enacted to read:

"EXPUNGEMENT OF ARREST AND CONVICTION RECORDS--PROCEDURE.--If a person was charged with an offense involving cannabis that is no longer a crime on the effective date of the Cannabis Regulation Act or that would have resulted in a lesser offense if that act had been in effect at the time of the offense, whether or not the person is convicted, all public records held by a court or an agency of the state or a local jurisdiction that relate to the person's arrest or conviction shall be automatically expunged two years after the date of the person's conviction or the date of the person's arrest if there was no conviction; provided that if the arrest or conviction included multiple charges, only the portions of the public records related to the cannabis charge shall be expunged. If the person is or was

under eighteen years of age at the time of the arrest or conviction, the public records shall be retained for two years or until the person is eighteen years of age, whichever comes first, and shall then be automatically expunged; provided that if the arrest or conviction included multiple charges, only the portions of the public records related to the cannabis charge shall be expunged. The public records shall be removed from all statewide criminal databases. The supreme court shall promulgate rules to implement the provisions of this section."

SECTION 6. A new section of the Criminal Record Expungement Act is enacted to read:

"DISMISSAL OF SENTENCES--INCARCERATED PERSONS.--

A. Within thirty days following the effective date of this section, a correctional facility, a county jail or a juvenile correctional facility in which a person is currently incarcerated for an offense that is no longer a crime pursuant to the provisions of the Cannabis Regulation Act, or that would have resulted in a lesser offense if that act had been in effect at the time of the offense, shall notify the court that the convicted person's case may be:

(1) reopened to consider possible dismissal of the person's sentence; or

(2) expunged pursuant to the provisions of the Criminal Record Expungement Act.

B. A court shall reopen a case pursuant to Subsection A of this section and dismiss the person's sentence if it is legally invalid.

C. A person who has completed the person's sentence for a conviction, whether by trial or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense if the Cannabis Regulation Act had been in effect at the time of the offense is entitled to have the conviction dismissed and expunged because the prior conviction is now legally invalid or redesignated as a penalty assessment citation.

D. On or before January 1, 2022, the department of public safety shall review the public records in the state criminal history databases and shall identify all past convictions that are potentially eligible for dismissal and expungement or redesignation pursuant to the Cannabis Regulation Act. The department of public safety shall notify the corrections department, prosecutors and defense counsel of record in the case resulting in the conviction of all cases that are eligible for dismissal and expungement or redesignation.

E. The prosecutor of the case shall have until July 1, 2022 to review all cases and determine whether to challenge the dismissal and expungement or redesignation.

F. The prosecutor of the case may challenge the

resentencing of a person pursuant to this section when the person does not meet the criteria established under the Cannabis Regulation Act.

G. On or before July 1, 2022, the prosecutor of the case shall inform the court and defense counsel of record in the case resulting in the conviction when the prosecutor of the case is challenging a particular dismissal and expungement or redesignation. The prosecutor of the case shall also inform the court when the prosecutor of the case is not challenging a particular dismissal and expungement or redesignation.

H. If the prosecutor of the case does not challenge the dismissal and expungement or redesignation by July 1, 2022, the court shall notify the department of public safety that the case has been dismissed. Upon notice, the department of public safety shall expunge the public record pertaining to the offense; provided that if the arrest included multiple charges, only the portions of the public records related to the cannabis charge shall be expunged.

I. A person who is currently incarcerated or who was incarcerated in the past for a cannabis offense that is no longer a crime may at any time petition to modify the person's criminal sentence or to have the person's conviction vacated. If the petition is granted, the court shall issue an order within thirty days of the granting of the petition

requiring that the portions of the public records related to the cannabis offense, as well as all records of proceedings related to the petition for expungement, be expunged.

J. Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to a person who was convicted of or incarcerated for a cannabis offense.

K. The provisions of this section shall apply equally to juvenile delinquency adjudications and convictions of a juvenile if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense as provided in the Cannabis Regulation Act.

L. No fee or cost of any kind shall be imposed upon a person whose sentence is reviewed pursuant to this section."

SECTION 7. Section 61-1-1 NMSA 1978 (being Laws 1957, Chapter 247, Section 1, as amended) is amended to read:

"61-1-1. SHORT TITLE.--Chapter 61, Article 1 NMSA 1978 may be cited as the "Uniform Licensing Act"."

SECTION 8. A new section of the Uniform Licensing Act is enacted to read:

"CRIMINAL CONVICTIONS--EXCLUSION FROM LICENSURE--DISCLOSURE REQUIREMENT.--

A. A board shall not exclude from licensure a person who is otherwise qualified on the sole basis that the

person has been previously arrested for or convicted of a crime, unless the person has a disqualifying criminal conviction.

B. By December 31, 2021, each board shall promulgate and post on the board's website rules relating to licensing requirements to list the specific criminal convictions that could disqualify an applicant from receiving a license on the basis of a previous felony conviction. Rules relating to licensing requirements promulgated by a board shall not use the terms "moral turpitude" or "good character". A board shall only list disqualifying criminal convictions.

C. In an administrative hearing or agency appeal, a board shall carry the burden of proof on the question of whether the exclusion from occupational or professional licensure is based upon a disqualifying criminal conviction.

D. No later than October 31 of each year, while ensuring the confidentiality of individual applicants, a board shall make available to the public an annual report for the prior fiscal year containing the following information:

(1) the number of applicants for licensure and, of that number, the number granted a license;

(2) the number of applicants for licensure or license renewal with a potential disqualifying criminal conviction who received notice of potential disqualification;

(3) the number of applicants for licensure or license renewal with a potential disqualifying criminal conviction who provided a written justification with evidence of mitigation or rehabilitation; and

(4) the number of applicants for licensure or license renewal with a potential disqualifying criminal conviction who were granted a license, denied a license for any reason or denied a license because of the conviction.

E. As used in this section, "disqualifying criminal conviction" means a conviction for a crime that is job-related for the position in question and consistent with business necessity."


La Villa Real de la Santa Fé de San Francisco de Asis
1610
1821
1846

CITY OF SANTA FE
LIQUOR LICENSE HEARING OFFICER

Recommended
Findings of Fact and Conclusions of Law

Application No.: 1183727 (NMRLD/AGD)
Name of Applicant: Blazing Wings, Inc.
Doing Business As: Buffalo Wild Wings
Proposed Location: 3501 Zafarano Drive, Santa Fe, NM 87501

THIS MATTER came before the Liquor License Hearing Officer for public hearing on June 21, 2021 at 4:00 PM by video hearing, on the application of Blazing Wings, Inc. (Applicant). The Hearing Officer recommends that the Governing Body adopt the following findings of fact and conclusions of law.

The Applicant requests local option district approval of the following:

Transfer ownership (change of more than 10% of ownership) of liquor license No. 1363

After reviewing the record, conducting a public hearing and having provided an opportunity to be heard from city staff, the Applicant and any interested persons, the Hearing Officer hereby FINDS:

FINDINGS OF FACT

1. Staff submitted a packet containing the following:
    a. June 21, 2021 memo from City Clerk Kristine Mihelcic
    b. March 11, 2021 letter from New Mexico Regulation and Licensing Department, Alcohol and Gaming Division (NMRLD/AGD) Hearing Officer Desirae Griego to the City of Santa Fe granting preliminary approval and forwarding the application to the City for local option district approval or disapproval.
    c. NMRLD/AGD Application No. 1183727
    d. July 22, 2020 zoning verification from Land Use Planner Senior Lee Logston confirming that bars and full service restaurants with alcohol service is a permitted use.
    e. Notices of Public Hearing (*Santa Fe New Mexican*, City of Santa Fe website, letter to Applicant from City Clerk)
    f. June 18, 202 memo from Ordinance Enforcement Specialist Jason Sena finding no anticipated substantial change in litter or noise as a result of the request
    g. City of Santa Fe Liquor License Request Supplemental Information
2. City Clerk Kristine Mihelcic presented the application.
3. Applicant was offered the opportunity to present testimony or evidence.

4. No members of the public appeared to testify.
5. Notice of the Application, including the date, time and place of the hearing, the name and address of the licensee, the action proposed to be taken by the department, the location of the licensee's premises and such other information as may be required by the department was published in the Santa Fe New Mexican, which is a newspaper of general circulation within the territorial limits of the governing body, on May 23 and 30, 2021 and on the City's website.
6. The Application is for an existing business in a location that currently serves liquor.
7. The business' normal hours are Sunday-Thursday, 11AM to 12AM, and Friday and Saturday 11Am to 1AM. Current hours are closing at 11PM
8. Business is expected to remain the same, and traffic is not expected to increase.
9. The Traffic Engineering Division has concluded that approval will not create unacceptable traffic impacts.
10. There will be a fully enclosed outdoor seating area.
11. The proposed location will not cause a substantial change in litter or noise.
12. The proposed location is not within an area where sale of alcoholic beverages is prohibited by the laws of New Mexico.
13. Issuance or transfer will not be in violation of a zoning or other ordinance of the governing body.
14. Issuance or transfer will not be detrimental to the public health, safety or morals of the residents of the local option district.
15. The hearing was recorded and a copy of the recording is made a part of the record.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Hearing Officer CONCLUDES:

1. Notice of the Application was properly given by publication, mail and posting on the website pursuant to Section 60-6B-4(D).
2. The governing body may disapprove a transfer or issuance only if individuals opposing the transfer or issuance provide positive evidence showing that the transfer or issuance would be detrimental to the health, safety or morals of the community. This evidence must be based on authentic, relevant facts related to s specific prospective licensee and specific location. *The Southland Corporation v. Manzagol*, 1994-NMSC-099, 118 N.M. 423
3. The Applicant does not have the burden to prove that the transfer would not be detrimental to the health, safety or morals of the residents of the local option district. *Dick v. City of Portales*, 1994-NMSC-092, 118 N.M. 541.
4. The Application meets the requirements of §60-6B-4(F)(2).

CONDITIONS OF APPROVAL

1. Applicant is required to comply with all applicable City of Santa Fe ordinances.

WHEREFORE, the Liquor License Hearing Officer recommends to the Governing Body that the Application be APPROVED.



06/24/2021

_____ Date: _____

Christopher L. Graeser

City of Santa Fe, New Mexico

memo

DATE: June 21, 2021

TO: Chris Graeser, Liquor Hearing Officer

FROM: Kristine Mihelcic
Kristine Mihelcic (Jun 21, 2021 11:35 MDT)
Kristine M. Mihelcic, City Clerk

ITEM & ISSUE

Request from Blazing Wings, Inc. for a Transfer of Ownership (change of stockholders) of Canopy Liquor License No. 1363.

BACKGROUND AND SUMMARY

The applicant has requested a Transfer of Ownership (change of stockholders) of Canopy Liquor License No. 1363. This license will remain at Buffalo Wild Wings, 3501 Zafarano Drive, Santa Fe. This location is not within 300 feet of a church or school.

Attached are staff reports regarding litter and noise. Staff does not anticipate a substantial change in litter and noise due to the approval of this request. The applicant did not return the Supplemental Information Form requested by the City therefore a traffic report is not included. Buffalo Wild Wings has been operating as this location since 2014.

Additionally, as a condition of doing business in the city, staff is recommending that it be noted that the applicant is required to comply with all of the city's ordinances.

ACTION REQUESTED

Consideration of the above request.

Attachments:
- Alcoholic Beverage Control Application
- Notice of Public Hearing and Publications
- Website Notice of Public Hearing
- Applicant's Proof of Publication
- Staff Reports

NMRLD
NEW MEXICO
REGULATION &
LICENSING DEPARTMENT

STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Linda M. Trujillo, Superintendent
Andrew Vallejos, Director

March 11, 2021

Certified Mail No.: 7011 2970 0003 9315 7533

City of Santa Fe
% Geralyn F. Cardenas, Assistant City Clerk
PO Box 909
Santa Fe, NM 87504-0909

Lic. No. /Appl. No.:	**License No. 1363 / Application No. 1183727**
Name of Applicant:	Blazing Wings, Inc.
Doing Business As:	Buffalo Wild Wings
Proposed Location:	3501 Zafarano Dr, Santa Fe, New Mexico 87507

The Director of the Alcoholic Beverage Control Division (ABC) has reviewed the referenced Application and granted **Preliminary Approval.** It is being forwarded to you for Local Option District approval or disapproval of the Liquor License Application.

Notice of the Public Hearing required by the Liquor Control Act **shall be given by the governing body by publishing a notice** of the date, time, and place of the hearing **twice during the 30 days prior to the hearing** in a newspaper of general circulation within the territorial limits of the governing body. **The first notice must be published at least thirty (30) days before the hearing. Both publications must occur before a hearing can be conducted.** The notice shall include:

(A) Name and address of the Applicant/Licensee;
(B) The action proposed to be taken;
(C) The location of the licensed premises.

In addition, if the Local Option District has a website, **the Notice shall also be published on the website.**

While the law states that "within forty-five **(45)** days after receipt of a Notice from the Alcoholic Beverage Control, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer", we recognize the potential for conflict between the requirement for publication of 30 day notice and the 45 day hearing requirement.

With that in mind, when a local governing body receives a liquor license application from ABC, that governing body has a couple of options:

1) Hold a hearing on the license application within the statutory time frame of forty-five (45) days, as required by the Liquor Control Act, and comply with all other statutory and regulatory procedures and notify ABC of your decision within thirty (30) days of the hearing;
2) Request from ABC an extension of time, past the forty-five (45) days, designating how much additional time will be needed to conduct the hearing in compliance with all statutory and

regulatory procedures. After the extension is granted and the hearing is held, notify ABC of your decision within thirty (30) days of the hearing;

ABC has no preference in the option you choose.

The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. **A record shall be made** of the hearing.

The Applicant is seeking a Transfer of Ownership of Canopy Liquor License No. 1363.

Within thirty (30) days after the Public Hearing, the governing body shall notify ABC of their decision to approve or disapprove the issuance or transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notices of publication. **If the Governing Body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may issue the license.**

If the Governing Body disapproves the issuance or transfer of the license, it shall notify ABC within thirty (30) days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to ABC with the Notice of Disapproval (*Page 1 of the Application, noting disapproval*).

Respectfully,

Desirae D. Griego
Admin Law Judge | Hearing Officer
NM Regulation & Licensing Department
Alcoholic Beverage Control Division
Phone: (505) 476-4552 Fax: (505) 476-4595
Email: Desirae.Griego@state.nm.us

Enclosures:

1. Original Page 1 of the Application (*must be signed and returned w/notices of publication*)
2. Copy of Page 2 of the Application
3. Copy of the Zoning Statement

AGD Stamp

New Mexico Regulation and Licensing Department | Alcohol and Gaming Division | Page 1 Revised 5/16
PO Box 25101 Santa Fe, NM 87504-5101 | Phone: (505) 476-4875 Fax: (505) 476-4595

RECEIVED
DEC 29 2020
ALCOHOLIC BEVERAGE CONTROL

AGD USE ONLY: Payment| Application Fee $ mr Received on: 12-29-2020 Receipt No. 23490609

Application Number: 1183727 Local Option District: Santa Fe City

TRANSFER OF DISPENSER-TYPE LIQUOR LICENSE APPLICATION

$200.00 Application Fee, non-refundable.

License No. 1363 Type of License: ILD Canopy

Check appropriate boxes:

Application is for: ☑ Transfer of Ownership ☐ Transfer of Ownership and Location ☐ Transfer of Location Only

Record Owner of Existing License: Blazin Wings, Inc.

Current D/B/A Name: Buffalo Wild Wings

Current Premises Address: 3501 Zafarano Dr, Santa Fe, NM 87507

Current LOD: City of Santa Fe Is License moving out of Local Option District? ☐ Yes ☑ No

APPLICANT IS: ☐ Individual ☐ Limited Liability Company ☑ Corporation ☐ Partnership (General/Limited)

NAME of Individual/Company:	**ADDRESS (including city, state, zip)**
Blazin Wings, Inc.	1155 Perimeter Center W, Atlanta, GA 30338

COPY TO: RHODES & SALMON, PC, MARK M. RHODES 1801 LOMAS BLVD NW, ALBUQUERQUE, NM 87104 (505)247-0328

D/B/A Name to be used: Buffalo Wild Wings **Business Phone #:** (505) 471-3353

Email Address (required): mmr@rspcnm.com

Physical location where license is to be used: (Include Street # / Highway # / State Road, City, State, and Zip Code)

3501 Zafarano Dr, Santa Fe, NM 87507

County of: Valencia County

Mailing Address: 1801 Lomas Blvd NW, Albuquerque, NM 87104

Are alcoholic beverages currently being dispensed at the proposed location? ☑ **Yes** ☐ **No** If Yes, License # / Type: 1363- ILD

Agent/Contact Person: Mark Rhodes **Phone#:** (505) 247-0328 **Email:** mmr@rspcnm.com

I, (print name) Robert Q Jones, Jr, as (title) Vice President being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

Sign before a Notary Public:

Signature of Applicant: [signature] Date: 12/15/2020

NOTARY PUBLIC USE ONLY: (State of Georgia, County of Fulton

SUBSCRIBED AND SWORN TO before me this 15th day of Dec, 20 20

By: Robert Q. Jones, Jr Notary Public: [signature]

My Commission Expires: 10-1-2022

TRACEY FRASER NOTARY PUBLIC FULTON COUNTY, GA Exp. Oct. 01, 2022

FOR LOCAL OPTION DISTRICT USE ONLY: Local Governing Body of: City, County, Village

Public Hearing held on _____, 20_____. Check one: ☐ Approved ☐ Disapproved

Signature and Title of City/County Official: _____

FOR ALCOHOL AND GAMING DIVISION USE ONLY: ☐ Approved ☐ Disapproved

Signed by Director: _____ Date: _____

RECEIVED
DEC 29 2020
ALCOHOLIC BEVERAGE CONTROL

PREMISES LOCATION, OWNERSHIP, AND DESCRIPTION

NMSA §60-6B-10

1. The land and building which is proposed to be the licensed premises is: (check one)

☐ Owned by Applicant, copy of deed/document attached ☑ Leased by Applicant, copy of lease/document attached

☐ Other (provide details): _____

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s): RFAI Santa Fe, LLC

B. Date and Term of Lease: September 28, 2012 (10 years)

3. Premises location is Zoned (*example C-1, see Zoning Statement*): C-2,

☑ **Zoning Statement attached**, which must be obtained from the Local Government, listing the proposed location by address, Type of Zone, state whether alcoholic beverages are allowed at proposed location, and if applicable, whether packaged sales, patio service and/or manufacturing is allowable. If there is no zoning in the proposed location, attach Statement from the local government, indicating there is no zoning.

4. Distance* from nearest Church: (*Property line of church to closest point of licensed premises—shortest distance*)

Name of Church: Praise Tabernacle Freedom Church Miles/feet: 3168 ft

Address/location of Church: 3723 Cerrillos Rd, Santa Fe, NM 87507

5. Distance* from nearest School: (*Property line of school to closest point of licensed premises—shortest distance*)

Name of School Childrens School Miles/feet 3168 ft

Address/location of School: 4010 Rodeo Rd, Santa Fe, NM 87507

6. Distance from military installation *(*Property line of military installation to closest point of licensed premises-shortest distance.*)

Name of Military Installation, *circle one:* Kirtland Air Force Base (Albuquerque), White Sands Missile Range (Las Cruces), Holloman Air Force Base (Alamogordo), Cannon Air Force Base (Clovis)

Miles: 60 mi

7. Attach Detailed Floor Plan, must include the Total Square Footage of premises; List nearest cross street; Show which direction is North; Show each level (floor) where alcoholic beverages will be sold or consumed, exterior walls, doors, and interior walls; Patio Area with type of barrier used; Highlight Bonded Areas. The floor plan should be no larger than 8½ x 11 inches and **must be labeled** with designated areas highlighted, which will reflect the proposed Licensed Premises.

8. Type of Operation: ☐ Hotel ☐ Lounge ☐ Package Grocery ☑ Restaurant ☐ Racetrack

☐ Small Brewer ☐ Craft Distiller ☐ Winery ☐ Wholesaler

☐ Other (specify): _____

***NOTE:** If the distance is beyond 300 feet, but less than 400 feet, a Registered Engineer or Licensed Surveyor must complete a Survey Certificate showing the exact distance.

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Roman "Tiger" Abeyta, District 3
Chris Rivera, District 3
Jamie Cassutt-Sanchez, District 4
JoAnne Vigil Coppler, District 4

July 22, 2020

Mark Rhodes
Rhodes & Salmon, PC
1801 Lomas Blvd NW
Albuquerque, New Mexico 87104

RECEIV
DEC 29 20
...NICOLIC B.
CONTR

RE: Zoning Verification for 3501 Zafarano Dr, Santa Fe, New Mexico

To Whom It May Concern,

This letter provides zoning verification on the above referenced property. According to the Official Zoning Map, this property is zoned C-2 (General Commercial) and within the Cerrillos Road Highway Corridor Protection District overlay.

14-4.3(B) C-2 General Commercial District
The C-2 general commercial district includes areas along streets carrying large volumes of traffic where commercial uses are appropriate. Regulations are designed to guide future additions or changes so as to discourage extension of existing and formation of future strip commercial development, to preserve the carrying capacity of the streets and to provide for off-street parking and loading.

14-5.5.(B) CRHC Overlay (Cerrillos Road Highway Corridor Protection District)
Cerrillos Road is one of Santa Fe's busiest thoroughfares, one of Santa Fe's primary entranceways, and one of the community's major commercial strips. For these reasons, it is the purpose and intent of the CRHC district to assure that Cerrillos Road "accommodates, in a safe and efficient manner, both through and local traffic", etc.

Bars and "full service" restaurants with alcohol service are permitted uses within C-2 districts.

For additional information, please reference City of Santa Fe Chapter 14 SFCC regarding these districts (Chapter 14-4 – Zoning Districts/14-6 Permitted Uses). All uses are subject to compliance with applicable development standards such as parking, lot coverage, etc. The permitted use table may be referenced here:
http://clerkshq.com/default.ashx?clientsite=Santafe-nm

Note: The information provided in this letter is solely derived from the Official Zoning Map and the minimum requirements set forth in Chapter 14, SFCC 1987. This letter intends to provide advice regarding zoning regulations. It is not the intent to state that the subject property complies with zoning requirements. Occupancy is determined based on zoning compliance at the time of building permit or certificate of occupancy, whichever applies. Additionally, it is not the intent to interfere with or to abrogate or annul any official document including conditions or safeguards made a part of the subject property at the time of any public hearings. Applicants are advised to pursue an independent search of official documents.

If you have any further questions, please contact me at cegemora@santafenm.gov or 505-955-6670.

Lee Logston
Senior Land Use Planner
City of Santa Fe, New Mexico

LEGALS

LEGAL # 88419

CITY OF SANTA FE

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Santa Fe Liquor Hearing Officer will hold a public hearing at 4:00 p.m. on Monday, June 21, 2021.

The purpose of this public hearing is to discuss a request from Blazin Wings, Inc., dba Buffalo Wild Wings, for a transfer of ownership (change of stockholders) of Canopy Liquor License No. 1363. This license will remain at 3501 Zafarano Drive, Santa Fe.

Virtual meeting information will be posted on the City of Santa Fe's Weekly Meeting List at least seventy-two (72) hours before the meeting at: santafenm.gov/weekly_meeting_list__agendas.

Kristine M. Mihelcic
City Clerk

Pub.: May 23, 30, 2021

LEGAL # 88419

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Kristine M. Mihelcic
City Clerk

Pub.: May 23, 30, 2021

June 21, 2021 at 4:00 P.M. - LIQUOR HEARING OFFICER

ATTEND VIRTUALLY

https://www.youtube.com/user/cityofsantafe *

Request from Blazin' Wings, Inc., dba Buffalo Wild Wings, for a transfer of ownership (change of stockholders) of Canopy Liquor License 1363. The License Will remain at 3501 Zafarano Drive, Santa Fe.

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Kristine M. Mihelcic
City Clerk

Received by The Santa Fe New Mexican
Date: May 19, 2021
To Be Published: May 23, 2021 &
May 30, 2021

By _____
The Santa Fe New Mexican (Signature)

SANTA FE NEW MEXICAN

202 E. Marcy
PO Box 2048
Santa Fe, NM 87504
Phone: 505-983-3303
FAX: 505-984-1785

Ad Proof/ Order Confirmation/ Invoice

RHODES AND SALMON, P.C.
1801 Lomas Blvd NW
Albuquerque NM, 871041205

505-247-0328

Account Number: S13946

Ad ID: 14054

Ordered By:

Ad Cost: $81.50

Tax Amount: $6.88

Total Amount: $88.38

Amount Due: $0.00

PO Number:

Sales Rep: Shaundel Moya

Order Taken by: Shaundel Moya

Payment $88.38

Credit Card - Visa:0707

Major Class: LEGAL NOTICES

Classification: Legals

Ad Type: Legal (wrapper)

# of Words 116

Product:

Placement:

Ad Size: 1.00 x 3.99"

Modular Size:

Color:

Run Dates:

05/23/21, 05/30/21

LEGAL # 88419

CITY OF SANTA FE

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Kristine M. Mihelcic
City Clerk

Pub.: May 23, 30, 2021

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
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Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Roman "Tiger" Abeyta, District 3
Chris Rivera, District 3
Jamie Cassutt-Sanchez, District 4
JoAnne Vigil Coppler, District 4

DATE: June 18, 2021

TO: Liquor Hearing Officer
Governing Body

VIA: Jarel LaPan Hill
Jarel LaPan Hill, City Manager

Elias Isaacson 06/18/21
Eli Isaacson, Director, Land Use Department

FROM: Jason Sena, Supervisor, Zoning, Code Compliance

ITEM & ISSUE

Litter and noise impact assessment, due to a request from Blazin Wings, Inc., dba Buffalo Wild Wings, for the following:

a) Pursuant to §60-6B-10 NMSA 1978, request from Blazin Wings, Inc., dba Buffalo Wild Wings, for transfer of ownership (change of stockholders) of Canopy Liquor License No. 1363. This license will remain at 3501 Zafarano Drive.

BACKGROUND AND SUMMARY

It is not anticipated that there will be a substantial change in litter and noise because of this request.

ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 07/07/2021
FOR CITY COUNCIL MEETING OF 07/14/2021

ISSUE:

Request for Approval of a Professional Services Contract in the Total Amount of $254,000 for CHART Consultant Team; Artful Life, LLC. (Pauline Kanako Kamiyama, Arts and Culture Department Director: pkkamiyama@santafenm.gov, 955-470-8482; Kristine Mihelcic, City Clerk and Community Engagement Department Director: kmmihelcic@santafenm.gov, 955-6846)

Committee Review:
Finance Committee: 7/6/21
Quality of Life Committee: 7/7/21
Public Works and Utilities Committee: 7/12/21
Governing Body: 7/14/21

QUALITY OF LIFE COMMITTEE ACTION: Approved on discussion. Councilor Garcia moved this item from the consent agenda to the discussion agenda.

SPECIAL CONDITIONS OR AMENDMENTS: The Committee went into Executive Session to discuss this item.

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	X		

ACTION SHEET
/ITEM FROM FINANCE COMMITTEE MEETING OF 07/06/21
FOR CITY COUNCIL MEETING OF 07/14/21

a) Request for Approval of a Professional Services Contract in the Total Amount of $254,000 for CHART Consultant Team; Artful Life, LLC. (Pauline Kanako Kamiyama, Arts and Culture Department Director: pkkamiyama@santafenm.gov, 955-470-8482; Kristine Mihelcic, City Clerk and Community Engagement Department Director: kmmihelcic@santafenm.gov, 955-6846)

Committee	**Review:**
Finance Committee:	7/6/21
Quality of Life Committee:	7/7/21
Public Works and Utilities Committee:	7/12/21
Governing Body: 7/14/21	

FINANCE COMMITTEE ACTION:

Approved on Discussion

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

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

City of Santa Fe

AGENDA

REGULAR MEETING OF
THE FINANCE COMMITTEE
JULY 06, 2021
5:00 PM
ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR FINANCE COMMITTEE MEETING

Attendance: In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, the ban on public gatherings in excess of those permitted in the current Public Health Order, and the need to incorporate technology and practices to re-institute in-person meetings consistent with the limitations established by the Order, the Finance Committee meeting will be conducted virtually.

Viewing: Members of the public 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.

Attend Virtually: Join on Zoom: https://santafenm-gov.zoom.us/j/99697697570?pwd=ZlJtR2Z3UGFEa2tESEJFbENaNnFvUT09
Passcode: 537024
By Phone: US: 346 248 7799 or 669 900 6833
Webinar ID: 996 9769 7570
Passcode: 537024
The video recording of this meeting 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 meetings on-line at any time during normal business hours. Please call 955-6521 for assistance.

Agenda: The agenda for the meeting will be posted at https://santafe.primegov.com/public/portal.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF CONSENT AGENDA**

5. **APPROVAL OF MINUTES**

   a. Regular Finance Committee – June 21, 2021

6. **PRESENTATION**

   a. Economic Recovery Update (Dr. Reilly White)

7. **ACTION ITEMS: CONSENT**

   a. Request for Approval of a Professional Services Contract in the Total Amount of $254,000 for CHART Consultant Team; Artful Life, LLC. (Pauline Kanako Kamiyama, Arts and Culture Department Director: pkkamiyama@santafenm.gov, 955-470-8482; Kristine Mihelcic, City Clerk and Community Engagement Department Director: kmmihelcic@santafenm.gov, 955-6846)

   Committee Review:
   Finance Committee: 7/6/21
   Quality of Life Committee: 7/7/21
   Public Works and Utilities Committee: 7/12/21
   Governing Body: 7/14/21

   b. Request Approval of Budget Amendment Resolution (BAR) for Department of Justice, Office of Justice Programs, FY 20 Coronavirus Emergency Supplemental Funding Grant Award. (Andrew Padilla, Chief of Police: aapadilla@santafenm.gov, 955-5102)

   Committee Review:
   Finance Committee: 7/6/21
   Quality of Life Committee: 7/7/21
   Governing Body: 7/14/21

   c. Request Approval of Budget Amendment Resolution (BAR) for New Mexico Department of Transportation Traffic Projects Grant Award. (Andrew Padilla, Chief of Police: aapadilla@santafenm.gov, 955-5102)

   Committee Review:
   Finance Committee: 7/6/21

Quality of Life Committee: 7/7/21
Governing Body: 7/14/21

8. **MATTERS FROM STAFF**

9. **MATTERS FROM THE COMMITTEE**

10. **MATTERS FROM THE CHAIR**

11. **NEXT MEETING: Monday, July 19, 2021**

12. **ADJOURN**

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

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Artful Life, LLC

Procurement Title: CHART Consultant Team/RFP 21/30/P

Procurement Method: State Price Agreement ☐ Cooperative ☐ Sole Source ☐ Other ☑

Exempt ☐ Request For Proposal (RFP) ☑ Invitation To Bid (ITB) ☐ Contract under 60K ☐ Contract over 60K ☐

Department Requesting Arts and Culture Staff Name Pauline Kanako Kamiyama

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	
☑	☐	Approved Procurement Checklist (by Purchasing)
☑	☐	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
☐	☐	State Price Agreement
☐	☑	RFP
☑	☐	Evaluation Committee Report
☐	☑	ITB
☐	☑	Bib Tab
☐	☑	Quotes (3 valid current quotes)
☐	☑	Cooperative Agreement
☐	☑	Sole Source Request and Determination Form
☐	☑	Contractors Exempt Letter
☐	☑	Purchasing Officers approval for exempt procurement
☐	☑	BAR
☐	☑	FIR
☑	☐	Executed Contract, Agreement or Amendment
☑	☐	Current Business Registration and CRS numbers on contract or agreement
☑	☐	Summary of Contracts and Agreements form
☑	☐	Certificate of Insurance
☑	☐	All documentation presented to Committees
☐	☑	Other:

Pauline Kanako Kamiyama, Director, 6/4/21

Department Rep Printed Name (attesting that all information included) | Title | Date

Fran Dunaway (Jun 8, 2021 10:27 MDT) | Chief Procurement Officer | Jun 8, 2021

Purchasing Officer (attesting that all information is reviewed) | Title | Date

Include all other substantive documents and records of communication that pertain to the procurement and contract.

City of Santa Fe, New Mexico
Memorandum

DATE: June 4, 2021

TO: Governing Body
Finance Committee
Quality of Life

VIA: Jarel LaPan Hill, City Manager
Mary McCoy, Finance Department Director
Fran Dunaway, Chief Procurement Officer
Rich Brown, Community Development Department Director

FROM: Pauline Kanako Kamiyama, Arts and Culture Department Director

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ITEM AND ISSUE:
Request for the Approval of Professional Services Contract in the Total Amount of $254,000 for CHART Consultant Team; Artful Life, LLC, Pauline Kanako Kamiyama, pkkamiyama@santafenm.gov, 505.470.8482

BACKGROUND AND SUMMARY:
The purpose of the Request for Proposal (RFP 21/30/P) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement of a consultant team (s) (Consultant) to facilitate the CHART Initiative including but not limited to the planning, development, coordination, communication, implementation, messaging, and evaluation of community-centered processes that fosters dialogue within the City.

PROCUREMENT METHOD:
A Request for Proposal RFP#21/30/P was issued.

CONTRACT NUMBER:
The FY20 Munis contract number is 3202772.

FUNDING SOURCE:
The funding source is:
Fund Name/Number: Constituent Services/1002575
Munis Org Name/Number: Other Consulting/ 510340

ACTION REQUESTED:
Arts and Culture Department and Community Engagement Department respectfully requests your review and approval.

The City of Santa Fe
AND
Arts and Culture Department and Community Engagement Department

REQUEST FOR PROPOSALS (RFP)

Culture, History, Art, Reconciliation and Truth (CHART) Initiative: Consultant Team

RFP#
21/30/P

RFP Release Date: March 8, 2021

Proposal Due Date: April 6, 2021
ELECTRONIC-ONLY PROPOSAL SUBMISSION

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement of a consultant team (s) (Consultant) to facilitate the CHART Initiative including but not limited to the planning, development, coordination, communication, implementation, messaging, and evaluation of community-centered processes that fosters dialogue within the City.

B. BACKGROUND INFORMATION

The City of Santa Fe ("City") recognizes the political and cultural divisions in the United States at this time and has observed the destruction of the Soldier's Monument (the Obelisk) on the Plaza, the removal of the Don Diego de Vargas statue from Cathedral Park, and the boarding up of the Kit Carson memorial. There is an urgent call to action to discuss the City's cultural histories and current viewpoints to seek solutions for a future of peace, justice, healing, and reconciliation through a process for community engagement that encourages people to speak, to be heard, and to listen. This is the beginning of an ongoing effort to learn and understand our complex histories and stories, and to promote truth, healing, and reconciliation for a future of peace and justice.

The goal is to promote broader cross-cultural understanding, racial equity, healing, and reconciliation in our community. To allow for individuals to openly share and communicate their feelings and their history. To provide advice on decisions for statutes and monuments as well as short, medium, and long-term responses for community healing and reconciliation. The information generated from the processes is a first effort and will be compiled in a format for use and consideration by the Governing Body to inform its deliberation and evaluation for future process, action, and decisions.

The Consultant should review Resolution 2021 – 6. Please see the Procurement Library in Section I. G.

C. SCOPE OF PROCUREMENT

The Consultant will have experience in facilitating and coordinating a community-centered practice, with cultural competency particularly with the communities of Northern New Mexico, especially experience working with communities within the City of Santa Fe. The Consultant will work closely with the City Project Team to implement a robust engagement process and write a final report with recommendations gained from community input.

The ideal Consultant, which may be a firm or team, will have:

- Experience in cultural competency particularly with the communities of Northern New Mexico, specifically within the City of Santa Fe
- Demonstrated community-centered practice with experience conducting community engagement, stakeholder facilitation and strategic planning processes
- Have facilitators and/or team members who are of and from the various Santa Fe communities
- Expertise as relates to issues of diversity, equity, and inclusion and ability to authentically engage stakeholders of diverse backgrounds with competency

- Strong administrative and organizational skills to manage complex and multi-layered project initiative from start to finish
- Track record of client collaboration and clear communication
- Excellent oral and written communication skills
- Capacity to complete the tasks described in this RFP within the time frame provided
- Commitment to providing exceptional customer service and responding to client requests in a timely fashion
- Expertise in research and evaluation
- Expertise in community outreach, communication
- Ability to communicate efficiently - construct press release, social media to help reach a broad spectrum of community members.

The Scope of Work includes but not limited to the following categories:
Administration, Facilitation/Training, Art Activations, Cultural History Series and Reporting and Evaluation. The anticipated timeframe is April 2021 through March 2022.

The resulting award may be multiple contracts.

This procurement will result in a contractual agreement between two parties; the procurement may ONLY be used by those two parties exclusively.

D. PROCUREMENT MANAGER

Arts and Culture Department and Community Engagement Department has assigned a Procurement Manager who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name: Sam Burnett, Procurement Manager
Telephone: (505) 795-2491
Email: jsburnett@santafenm.gov

1. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other city employees or Evaluation Committee members do not have the authority to respond on behalf of the Procurement Manager.

2. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.13.** As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and Procurement Manual Section Y, **ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals.** Protests submitted or delivered to the Procurement Manager will **NOT** be considered properly submitted.

E. PROPOSAL SUBMISSION

Submissions of all proposals must be accomplished via email to: purchasing@santafenm.gov.

F. DEFINITION OF TERMINOLOGY

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations:

1. "**Authorized Purchaser**" means an individual authorized by a Participating Entity to place orders against this contract.

2. "**Award**" means the final execution of the contract document.

3. "**Business Hours**" means 8:00 AM thru 5:00 PM MST/MDT, whichever is in effect on the date given.

4. "**Central Purchasing Office**" means the office responsible for the control of procurement of items of tangible personable property, services or construction.

5. "**Chief Procurement Officer**" means that person within the Central Purchasing Office who is responsible for the control of procurement of items of tangible personable property, services or construction.

6. "**City**" means the City of Santa Fe, New Mexico which in the procurement context may act through the Finance Director, City Manager, or Governing Body.

7. "**Close of Business**" means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.

8. "**Confidential**" means confidential financial information concerning Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7, NMSA 1978,. The following items may **not** be labelled as confidential: Offeror's submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.

9. "**Contract**" means any agreement for the procurement of items of tangible personal property, services or construction.

10. "**Contractor**" means any business having a contract with the City of Santa Fe.

11. "**Department**" means the Requesting Department sponsoring this Procurement.

12. "**Determination**" means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

13. "**Desirable**" – the terms "may," "can," "should," "preferably," or "prefers" identify a desirable or discretionary item or factor.

14. "**Electronic Submission**" means a successful submittal of Offeror's proposal.

15. "**Electronic Version/Copy**" means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The digital form may be submitted using a compact disc (CD) or USB flash drive. The electronic version/copy can only be emailed.

16. "**Evaluation Committee**" means a body appointed to perform the evaluation of Offerors' proposals.

17. "**Evaluation Committee Report**" means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee's recommendation for contract award. It will contain scores and written evaluations of all responsive Offeror proposals.

18. "**Final Award**" means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.

19. "**Finalist**" means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

20. "**Hourly Rate**" means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

21. "**Mandatory**" – the terms "must," "shall" "will," "is required," or "are required," identify a mandatory item or factor. Failure to meet a mandatory item or factor may result in the rejection of the Offeror's proposal.

22. "**Minor Irregularities**" means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.

23. "**Multiple Source Award**" means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Offeror.

24. "**Offeror**" is any person, corporation, or partnership who chooses to submit a proposal.

25. "**Price Agreement**" means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to the City of Santa Fe, a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

26. "**Procurement Manager**" means any person or designee authorized by the Requesting Department to facilitate the procurement and or administer the contract(s)s .

27. "**Project**" means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.

28. "**Redacted**" means a version/copy of the Offeror's proposal with the information considered proprietary or confidential (as defined by §§57-3A-1 to 57-3A-7, NMSA 1978 and summarized herein and outlined in Section II.C.8 of this RFP) blacked-out <u>BUT NOT</u> omitted or removed.

29. "**Request for Proposals (RFP)**" means all documents, including those attached or incorporated by reference, used for soliciting proposals.

30. "**Requesting Department**" means the City Department responsible for overseeing the work or delivery of tangible personal property by a contractor.

31. "**Responsible Offeror**" means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.

32. "**Responsive Offer**" or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.

33. "**Sealed**" means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The City of Santa Fe reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the City's Chief Procurement Officer. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Chief Procurement Officer in such cases.

34. "**Staff**" means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors' company.

35. "**State (the State)**" means the State of New Mexico.

36. "**Statement of Concurrence**" means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal. (E.g. "We concur," "Understands and Complies," "Comply," "Will Comply if Applicable," etc.)

37. "**Unredacted**" means a version/copy of the proposal containing all complete information; including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.

38. "**Written**" means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.

G. PROCUREMENT LIBRARY

A procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in the electronic version of this document through your own internet connection. The library contains information listed below:

Electronic version of RFP, Questions & Answers, RFP Amendments, etc.
https://www.santafenm.gov/bids_rfps

Other relevant links:
Resolution 2021 – 6, www.santafenm.gov/chart outlines in detail the desires of the Governing Body.

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule of events, the descriptions of each event, and the conditions governing this procurement.

A. SEQUENCE OF EVENTS

The City's Central Purchasing Office and the Procurement Manager will make every effort to adhere to the following schedule:

Action	Responsible Party	Due Dates
1. Issue RFP	Central Purchasing Office	3/9/2021
2. Acknowledgement of Receipt Form	Potential Offerors	3/16/2021
3. Pre-Proposal Conference	Requesting Department	3/16/2021
4. Deadline to submit Written Questions	Potential Offerors	3/25/2021
5. Response to Written Questions	Procurement Manager	3/29/2021
6. Submission of Proposal	***Potential Offerors***	***4/6/2021***
7.* Proposal Evaluation	Evaluation Committee	4/8/2021
8.* Selection of Finalists	Evaluation Committee	4/12/2021
9 * Oral Presentation(s)	Finalist Offerors	4/14/2021
10.* Finalize Contractual Agreements	Requesting Department/Finalist Offerors	4/15/2021
11.* Contract Awards	Requesting Department/ Finalist Offerors	4/20/2021
12.* Protest Deadline	Central Purchasing Office	+15 days

*Dates indicated in Events 7 through 13 are estimates only, and may be subject to change without necessitating an amendment to the RFP.

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the Sequence of Events shown in Section II.A., above.

1. Issue RFP

This RFP is being issued on behalf of The City Arts and Culture Department and Community Engagement Department on March 8, 2021.

2. Acknowledgement of Receipt Form

Potential Offerors may e-mail the Acknowledgement of Receipt Form (APPENDIX A), to the Central Purchasing Office at Purchasing@santafenm.gov , to have their organization placed on the procurement Distribution List. **Please put the RFP number and Title in the Subject line of the email.** The form must be returned to the Central Purchasing Office by 3:00 pm MST/ MDT on the date indicated in Section II.A, Sequence of Events

The procurement distribution list will be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror's representative shall not be included on the distribution list, and will be solely responsible for obtaining from the Procurement Library (Section I.G.) responses to written questions and any amendments to the RFP.

3. Pre-Proposal Conference

A pre-proposal conference will be held as indicated in Section II.A, Sequence of Events, beginning at 3pm MST/MDT via Zoom. https://santafenm-gov.zoom.us/j/96202891739?pwd=c3kwb0FkVkxETjhGUHcxdTNMbE1jdz09. **Potential Offeror(s) are encouraged to submit written questions in advance of the conference to the Central Purchasing Office and the Procurement Manager** (see Section I.D). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All questions answered during the Pre-Proposal Conference will be considered **unofficial** until they are posted in writing. All written questions will be addressed in writing on the date listed in Section II.A, Sequence of Events. A public log will be kept of the names of potential Offeror(s) that attended the pre-proposal conference.

Attendance at the pre-proposal conference is highly recommended, but not a prerequisite for submission of a proposal.

4. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Central Purchasing Office and the Procurement Manager as to the intent or clarity of this RFP until 3pm MST/MDT as indicated in Section II.A, Sequence of Events. All written questions must be addressed to the Central Purchasing Office and the Procurement Manager as declared in Section I.D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

5. Response to Written Questions

Written responses to the written questions will be provided via e-mail, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an Acknowledgement of Receipt Form (Section II.B.2 and APPENDIX A).

An electronic version of the Questions and Answers will be posted to:
https://www.santafenm.gov/bids_rfps

6. Submission of Proposal

At this time, only **electronic** proposal submission is allowed. **Do not** submit hard copies until further notice. **Please put the RFP number and Title in the Subject line of the email.**

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE CENTRAL PURCHASING OFFICE VIA EMAIL AT Purchasing@santafenm.gov NO LATER THAN **3:00 PM** MST/MDT ON **APRIL 6, 2021. PROPOSALS RECEIVED AFTER THIS DEADLINE WILL NOT BE ACCEPTED.** The date and time of receipt will be recorded on each proposal.

Proposals must be submitted electronically through email until further notice. Refer to Section III.B.1 for instructions. Proposals submitted by facsimile will not be accepted.

A log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to §13-1-116, NMSA 1978, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required City of Santa Fe signatures on the contract(s) resulting from the procurement has been obtained.

7. Proposal Evaluation

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in Section II.A, Sequence of Events, depending upon the number of proposals received. During this time, the Central Purchasing Office or/and the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

8. Selection of Finalists

The Evaluation Committee will select and the Procurement Manager will notify the finalist Offerors as per schedule Section II.A, Sequence of Events or as soon as possible thereafter. A schedule for Oral Presentation, if any, will be determined at this time. Finalists will be Offerors receiving the highest cumulative scores in the following Sections: Section IV.B.1 Organizational Experience, Section IV.B.2 Organizational References.

9. Oral Presentations

Finalist Offerors, as selected per Section II.B.8 above, may be required to conduct an oral presentation via Zoom to be determined as per schedule Section II.A., Sequence of Events, or as soon as possible thereafter. If oral presentations are held, Finalist Offerors may be required to make their presentations through electronic means (GoToMeeting, Zoom, etc). The Department will provide Finalist Offerors with applicable details. Whether or not Oral Presentations will be held is at the discretion of the Evaluation Committee and Central Purchasing Office.

10. Finalize Contractual Agreements

After approval of the Evaluation Committee Report, any contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s), taking into consideration the evaluation

factors set forth in this RFP, as per Section II.A., Sequence of Events, or as soon as possible thereafter. The most advantageous proposal may or may not have received the most points. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the timeframe specified, the City of Santa Fe reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

11. Contract Awards

Upon receipt of the signed contractual agreement, the Department will award as per Section II.A., Sequence of Events, or as soon as possible thereafter. The award is subject to appropriate Department and Governing Body approval.

12. Protest Deadline

Any protest by an Offeror must be timely submitted and in conformance with §13-1-172, NMSA 1978 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and Procurement Manual Section Y, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15 calendar day protest period shall begin on the day following the notice of award of contract(s) and will end at 5:00 pm MST/MDT on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

Fran Dunaway
Chief Procurement Officer
City of Santa Fe
fadunaway@santafenm.gov

PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Potential Offerors must indicate their acceptance of these Conditions Governing the Procurement, Section II.C, by completing and signing the Letter of Transmittal form, pursuant to the requirements in Section II.C.30, located in APPENDIX E.

2. Incurring Cost

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with the Department which may derive from this RFP. The Department entering into a contractual agreement with a vendor will make payments to only the prime contractor.

4. Subcontractors/Consent

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from The Department awarding any resultant contract, before any subcontractor is used during the term of this agreement.

5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. **The Department or the Central Purchasing Office personnel will not merge, collate, or assemble proposal materials.**

6. Offeror's Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request addressed to the Central Purchasing Office and the Procurement Manager and signed by the Offeror's duly authorized representative.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for one-hundred eighty (180) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.

8. Disclosure of Proposal Contents

The contents of all submitted proposals will be kept confidential until the final award has been completed by The City. At that time, all proposals and documents pertaining to the proposals will be available for public inspection, *except* for proprietary or confidential material as follows:

a. ***Proprietary and Confidential information is restricted to***:
    1. confidential financial information concerning the Offeror's organization; and
    2. information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7.

b. An additional but separate redacted version of Offeror's proposal, as outlined and identified in Sections III.B.1.a.i and III.B.2.a.i, shall be submitted containing the blacked-out proprietary

or confidential information, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

IMPORTANT: The price of products offered or the cost of services proposed **SHALL NOT** be designated as proprietary or confidential information.

If a request is received for disclosure of proprietary or confidential materials, the City Attorney and the Chief Procurement Officer shall examine the request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of proprietary or confidential information.

9. No Obligation

This RFP in no manner obligates The City or any of its Departments to the use of any Offeror's services until a valid written contract is awarded and approved by appropriate authorities.

10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the Department determines such action to be in the best interest of the City of Santa Fe.

11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be affected by sending written notice to the contractor. The Department's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The Department requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror's concerns must be promptly submitted in writing to the attention of the Central Purchasing Office and the Procurement Manager.

13. Governing Law

This RFP and any agreement with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied in writing by the Central Purchasing Office and the Procurement Manager or contained in this RFP shall be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

The contract between the Department and a contractor will follow the format specified by The City and contain the terms and conditions set forth in the Draft Contract Appendix C. However, the contracting Department reserves the right to negotiate provisions in addition to those contained in this RFP Draft Contract with any Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of any resultant contract.

The City discourages exceptions from the contract terms and conditions as set forth in the RFP Draft Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of The City (and its evaluation team), the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.

Should an Offeror object to any of the terms and conditions as set forth in the RFP Draft Contract (APPENDIX C) strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose **specific** alternative language. The City may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions of the Draft Contract are not acceptable to The City and will result in disqualification of the Offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror) is an **explicit agreement** by the Offeror that the contractual terms and conditions contained herein are **accepted** by the Offeror.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with The City. See Section II.C.15 for requirements.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation (such terms and conditions having been proposed during the procurement process, that is, the RFP process prior to selection as successful Offeror), will be discussed only between The City and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the potential Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee

will reject the proposal of any potential Offeror who is not a Responsible Offeror or fails to submit a Responsive Offer as defined in §13-1-83 and §13-1-85, NMSA 1978.

19. Right to Waive Minor Irregularities

The Evaluation Committee, upon approval from the Chief Procurement Officer, reserves the right to waive minor irregularities, as defined in Section I.F.23. The Evaluation Committee also reserves the right to waive mandatory requirements, provided that **all** of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

The City reserves the right to require a change in contractor representatives if the assigned representative(s) is (are) not, in the opinion of The City, adequately meeting the needs of The City.

21. Notice of Penalties

The Procurement Code, §§13-1-28 through 13-1-199, NMSA 1978, imposes civil, and misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

22. Department Rights

The Department in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Offeror's proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from The City written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or City contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or removal from the contract.

24. Ownership of Proposals

All documents submitted in response to the RFP shall become property of The City. If the RFP is cancelled, all responses received shall be destroyed by the Central Purchasing Office unless the Offeror either picks up, or arranges for pick-up, the materials within three (3) business days of notification of the cancellation. Offeror is responsible for all costs involved in return mailing/shipping of proposals.

25. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of The City.

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without The City's written permission.

26. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.5, Response to Written Questions).

27. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the Central Purchasing Office, the Offeror acknowledges that the version maintained by the Central Purchasing Office shall govern. Please refer to: https://www.santafenm.gov/bids_rfps

28. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form, APPENDIX B, as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not made for the positions of Governor and Lieutenant Governor, City Officials or other identified official. **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

29. Letter of Transmittal

Offeror's proposal must be accompanied by an **unaltered** Letter of Transmittal Form (APPENDIX E), which must be **completed** and **signed** by the individual authorized to contractually obligate the company, identified in #2 below. **DO NOT LEAVE ANY OF THE ITEMS ON THE FORM BLANK** (N/A, None, Does not apply, etc. are acceptable responses).

The Letter of Transmittal MUST:

1. Identify the submitting business entity (its Name, Mailing Address and Phone Number);
2. Identify the Name, Title, Telephone, and E-mail address of the person authorized by the Offeror's organization to (A) contractually obligate the business entity providing the Offer, (B) negotiate a contract on behalf of the organization; and/or (C) provide clarifications or answer questions regarding the Offeror's proposal content *(A response to B and/or C is only required if the responses differs from the individual identified in A)*;
3. Identify sub-contractors, if any, anticipated to be utilized in the performance of any resultant contract award;
4. Describe any relationship with any other entity (such as City, County, State Agency, reseller, etc., that is not a sub-contractor identified in #3), if any, which will be used in the performance of this awarded contract; and
5. Be signed and dated by the person identified in #2 above; attesting to the veracity of the information provided, and acknowledging (a) the organization's acceptance of the Conditions Governing the Procurement stated in Section II.C.1, (b) the organizations acceptance of the Section V Evaluation Factors, and (c) receipt of any and all amendments to the RFP.

Failure to respond to ALL items as indicated above, will result in Offeror's disqualification.

30. Disclosure Regarding Responsibility

A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:

1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;

2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
   a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
   b. violation of Federal or state antitrust statutes related to the submission of offers; or
   c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;

3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds $3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.

a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
c. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

C. The Contractor shall provide immediate written notice to the Chief Procurement Officer or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the Chief Procurement Officer or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the Chief Procurement Officer may terminate the involved contract for cause. Still further the Chief Procurement Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the Chief Procurement Officer

31. Local Preferences

The City recognizes the value of revenue derived from local businesses and shall procure goods and/or services locally when possible, pursuant to Ordinance and this Manual, except for purchases using City, state and federal grant funds. Applicable City, state and federal law and regulations govern procurements using City, state or federal funds.

1. Local Preference Qualification

To qualify for a local preference, a vendor must attach a state of New Mexico Taxation and Revenue Department-issued, Resident Business certification of eligibility to its bid or proposal, showing that the business is located within the Santa Fe municipal limits. If an offer is received without a copy of the appropriate State of New Mexico Taxation and Revenue Department issued Business Registration Certificate, the preference will not be applied. A valid resident business certificate is issued by the Taxation and Revenue Department pursuant to NMSA 1978 §13-1-22.

a. The City shall award additional 3% of the total weight of all the factors used in evaluating the proposal to a local resident business. The City shall award an additional 3% of the total weight of all the factors used in evaluating the proposal to a non-local resident business who has hired all local resident business subcontractors.

b. When the City makes a purchase using a formal request for proposal process and the contract is awarded based on a point-based system, the City shall award additional point's equivalent to 3% of the total possible points to a local resident business. The City shall award an additional 3% of the total possible points to a business who has hired all local resident business subcontractors.

The maximum available local preference shall be 6%.

2. Solicitations above One Million Dollars ($1,000,000)

a. The City shall deem a bid or proposal submitted by a resident business to be 6% lower than the bid actually submitted, if and only if at least 50% of the subcontracted services go to subcontractors who are resident businesses.

b. The City shall deem the bid or proposal submitted by a non-local resident business to be 3% lower than the bid actually submitted, if and only at least 50% of the sub-contracted services go to subcontractors who are resident businesses.

The Local Preferences shall not apply if the expenditures for this RFP includes federal funds.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

B. NUMBER OF COPIES

1. ELECTRONIC SUBMISSION ONLY Responses

Proposals in response to this RFP must be submitted through City of Santa Fe's Purchasing email ONLY, the Offeror need only submit one single electronic copy of each portion of its proposal (Technical and Cost) as outlined below. *EXCEPTION: Single electronic files that exceed 50mb may be submitted as multiple uploads, which must be the least number of uploads necessary to fall under the 50mb limit.* Separate the proposals as described below into separate electronic files for submission.

Proposals must be submitted in the manner outlined below. Technical and Cost portions of Offerors proposal **must** be submitted in separate uploads as indicated below in this section, and **must** be prominently identified as "Technical Proposal," or "Cost Proposal," on the front page of each upload

a) **Technical Proposals –** One (1) ELECTRONIC upload must be organized in accordance with **Section III.C.1. Proposal Format**. All information for the Technical Proposal **must be combined into a single file/document for uploading**. *EXCEPTION: Single electronic files that exceed 50mb may be submitted as multiple uploads, which must be the least number of uploads necessary to fall under the 50mb limit.* The Technical Proposals **SHALL NOT** contain any cost information.

   i. **Confidential Information**: If Offeror's proposal contains confidential information, as defined in Section I.F.6 and detailed in Section II.C.8, Offeror **must** submit **two (2) separate ELECTRONIC technical files** :
      - One (1) ELECTRONIC version of the requisite proposals identified as **unredacted** (def. Section I.F.38) versions for evaluation purposes; and
      - One (1) **redacted** (def. Section I.F.29) ELECTRONIC for the public file, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal. Redacted versions **must** be clearly marked as "REDACTED" or "CONFIDENTIAL" on the first page of the electronic file;

b) **Cost Proposals –** One (1) ELECTRONIC upload of the proposal containing **ONLY** the Cost Proposal. All information for the cost proposal **must be combined into a single file/document for uploading**. *EXCEPTION: Single electronic files that exceed 50mb may be submitted as multiple uploads, which must be the least number of uploads necessary to fall under the 50mb limit*

The ELECTRONIC proposal submission must be fully submitted to: purchasing@santafenm.gov by the submission deadline in Section II.B.6.

Any proposal that does not adhere to the requirements of this Section and **Section III.C.1 Proposal Content and Organization** may be deemed non-responsive and rejected on that basis.

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

Organization of files/envelopes for electronic copy proposals:

1. Proposal Content and Organization

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material must be minimal. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

Technical Proposal – **DO NOT INCLUDE ANY COST INFORMATION IN THE TECHNICAL PROPOSAL.**

A. Signed Letter of Transmittal
B. Signed Campaign Contribution Form
C. Table of Contents
D. Proposal Summary (Optional)
E. Response to Contract Terms and Conditions (from Section II.C.15)
F. Offeror's Additional Terms and Conditions (from Section II.C.16)
G. Response to Specifications **(except Cost information which shall be included ONLY in Cost Proposal/Binder 2)**
    1. Organizational Experience
    2. Organizational References
    3. Oral Presentation (if applicable)
    4. Local Preferences (if applicable)
H. Other Supporting Material (if applicable)

Cost Proposal:

1. Completed Cost Response Form (APPENDIX D)

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. **Any and all discussion of proposed costs, rates or expenses must occur ONLY in the Cost Proposal.**

A Proposal Summary may be included in Offeror's Technical Proposal, to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal. **DO NOT INCLUDE COST INFORMATION IN THE PROPOSAL SUMMARY.**

IV. SPECIFICATIONS

A. DETAILED SCOPE OF WORK

The Consultant will have experience in facilitating and coordinating a community-centered practice, with cultural competency particularly with the communities of Northern New Mexico, especially experience working with communities within the City of Santa Fe. The Consultant will work closely with the City Project Team to implement a robust engagement process and write a final report with recommendations gained from community input.

The ideal Consultant, which may be a firm or team, will have:

- Experience in cultural competency particularly with the communities of Northern New Mexico, specifically within the City of Santa Fe
- Demonstrated community-centered practice with experience conducting community engagement, stakeholder facilitation and strategic planning processes
- Have facilitators and/or team members who are of and from the various Santa Fe communities
- Expertise as relates to issues of diversity, equity, and inclusion and ability to authentically engage stakeholders of diverse backgrounds with competency
- Strong administrative and organizational skills to manage complex and multi-layered project initiative from start to finish
- Track record of client collaboration and clear communication
- Excellent oral and written communication skills
- Capacity to complete the tasks described in this RFP within the time frame provided
- Commitment to providing exceptional customer service and responding to client requests in a timely fashion
- Expertise in research and evaluation
- Expertise in community outreach, communication
- Ability to communicate efficiently - construct press release, social media to help reach a broad spectrum of community members.

The Scope of Work includes but is not limited to the following categories:
Administration, Facilitation/Training, Art Activations, Cultural History Series and Reporting and Evaluation.

Framework
Meeting people where they are provides access to entry points for city-wide participation. There will be three opportunities for participation:

1. **Community Convenings – Phase 1**
   Consist of three sessions as follows:
   - Round One will focus on personal identity and stories;
   - Round Two will focus on shared dialogue and cross-dialogue about core values, building on Round One; and
   - Round Three will focus on generating solutions, recommendations, and responses

   Community Solutions Table – Phase 2
   Community Solutions Table shall review, discuss, and consider summarized notes and documentation from Round One and Two of the community dialogue sessions, community survey

results, and solutions, recommendations, and responses generated during Round Three of the community dialogue sessions

- **Community Solutions Table** will be established to include representatives who have participated in all three community dialogue sessions
- Will suggest solutions based on a combination of recommendations from session participants at the end of each community dialogue session
- Membership on the Community Solutions Table will be determined after the community dialogue sessions have ended
- Membership of the Community Solutions Table shall be intentionally diverse and representative of the Santa Fe community in terms of age, gender identity, sexual orientation, race, and cultural background
- The Community Solutions Table shall also include a balance of perspectives and opinions on the City histories, and stories, as well as a balance of perspectives on the obelisk and other monuments and statues of the community.
- Community Solutions Table shall hold 2 – 3 facilitated sessions with a format of consensus building.

2. **One-on-One interviews**
   - Individual, one-on-one interviews be conducted as an alternative for providing input by community members who cannot participate in community dialogue sessions
   - Interviews will ask more in-depth questions than the survey and will require 15 - 30 minutes to complete.

3. **Community Survey**
   - Conducted in multiple languages to broaden the number of voices participating in the community dialog and to provide an alternative for individuals who cannot or choose not to participate in community dialogue sessions.

The Consultant will fulfill the above framework through:

Administration

- Design the community dialogue sessions, one-on-one interviews, online survey and Community Solutions Table with an evaluator to ensure equity, inclusion and non-bias questions/framing
- Manage an engagement calendar and schedule of online and in-person convenings, interviews and other interaction as needed
- Identify and train a team of facilitators for community dialogue sessions, one-on-one interviews, online survey and Community Solutions Table
- Pair facilitators or co-facilitators with conveners of organizational and community dialogue sessions
- Conduct regular check in sessions for facilitators.
- Ensure multi-lingual and accessibility access including not limited to child care when in person meetings are allowable by State Public Health Order
- Collaborate with the City project team on city-wide outreach including but not limited to organizations and individuals
- Coordinate and set meeting schedules with the City project team
- Participate in weekly check-ins with the City project team regarding logistics and schedules
- Design, coordinate, implement and manage Communications including social media, press releases, website, written summary reports, etc. in coordination with the City's Communication's Director
- Provide regular updates to the Governing Body on the status of the CHART process
- Bi-lingual Spanish and other languages including American Sign Language as needed

Facilitation/Training

- Provide implicit and anti-racism training sessions to, but not limited to, City elected officials, City Project Team, City Directors and/or others as identified by the City
- Retain facilitators and/or team members that are representative of the various communities of Santa Fe including those from non-profit and social service organizations
- Convening of community dialogue sessions by organizations
- Facilitate, as appropriate, a number of community dialogue sessions open generally to community members unaffiliated with a particular community organization
- Facilitate one-on-one interviews
- Facilitate Community Solutions Table
- Convenings facilitated primarily via online platforms, although some in-person sessions may be allowed per public health criteria status related to COVID-19.
- Bi-lingual Spanish and other languages including American Sign Language as needed

Art Activations

- Engage Santa Fe's artistic and cultural community to produce 5-8 art activations modeled on but not exclusive to Paper Monuments
- Artist outreach should include all mediums, ages and career levels and artists collectives particularly those from traditionally disenfranchised communities
- Consultant manages and pays the artist and the art process
- Locations for art activations include but not limited to the downtown Plaza but also midtown and southside of Santa Fe
- Artist selection process will be open call format and encouraged to be as accessible as possible through simplified application
- Coordinate with the City for site identification
- Bi-lingual Spanish and other languages including American Sign Language as needed

Cultural History Series

- Create series focusing on Santa Fe and Northern New Mexico's history, present and future for both online and in person (when feasible)
- Engage with historians, artists, culture bearers, storytellers, scientists, makers, etc. in formats that will engage a wide range of ages and interests – examples include panels, speaker series, pecha kuchas, interviews, storytelling, performance, etc.
- Record and document all sessions for access to the public via City website/youtube or similar platforms.
- Evaluate each session for efficacy and impact

Reporting and Evaluation

- Will be responsible for summarizing and/or collecting discussions notes from all engagements (convenings, interviews, survey) for the Community Solutions Table
- Create and implement an evaluation for both participants and trained team facilitators on the process and outcomes
- Use of data visualization, infographics, dashboards etc. that expresses data in various representation to convey the stories and information behind the numbers
- Create a Final Report on the CHART Initiative (convenings, surveys, interviews, art activations, cultural history series, etc) in a format for use and consideration by the Governing Body to inform its deliberation and evaluation for future process, action, and decisions and include but not limited to recommendations for continued city-wide engagement

- Create content for communications for updates and outreach in both digital and print in both Spanish and English, other languages as necessary

B. TECHNICAL SPECIFICATIONS

1. Organizational Experience

Offeror **must**:

a) provide a detailed description of relevant culturally competent facilitation experience with city or state government and private sector. The experience of all proposed subcontractors must be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise and knowledge as a provider of community-centered processes and methodologies towards the goal of reconciliation, healing and actionable items. Include: description of community convenings you have done, how many of convenings, experience working with research/evaluator to formulate survey and interview questions, experience in conducting one-on-one interviews and large group convenings. All community-centered processes and methodologies provided to private sector will also be considered.

b) provide a brief resume/bio of all key personnel Offeror proposes to use in performance of the resulting contract, should Offeror be awarded. Key personnel is identified as project manager, lead facilitator or other role of leadership to fulfill the CHART Initiative. Offeror must include key personnel education, work experience, relevant certifications/licenses in facilitation, mediation and/or diversity/equity/inclusion (DEI).

c) Describe your knowledge of Northern New Mexico, in particular Santa Fe. What is your familiarity with history, cultural history, local neighborhood issues, past and current tensions both locally and nationally.

d) describe at least two project successes and failures of community-centered engagement. Include how each experience improved the Offeror's services.

2. Organizational References

Offeror must provide a list of a minimum of three (3) references from similar projects/programs performed for private, city, state or large local government clients within the last three (3) years.

Offeror shall include the following Business Reference information as part of its proposals:

a) Client name;
b) Project description;
c) Project dates (starting and ending);
d) Staff assigned to reference engagement that will be designated for work per this RFP; and
e) Client project manager name, telephone number, fax number and e-mail address.

Offeror is required to submit APPENDIX F, Organizational Reference Questionnaire ("Questionnaire"), to the business references it lists. **The business references must submit the Questionnaire directly to the designee identified in APPENDIX F. The business references must <u>not</u> return the completed Questionnaire to the Offeror.** It is the Offeror's responsibility to

ensure the completed forms are submitted on or before the date indicated in Section II. A, Sequence of Events, for inclusion in the evaluation process.

Organizational References that are not received or are not complete, may adversely affect the Offeror's score in the evaluation process. Offerors are encouraged to specifically request that their Organizational References provide detailed comments.

C. BUSINESS SPECIFICATIONS

1. Letter of Transmittal Form

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX E. The form **must** be completed and must be signed by the person authorized to obligate the company. **Failure to respond to ALL items, as indicated in Section II.C.30 and APPENDIX E, and to return a signed, unaltered form will result in Offeror's disqualification.**

2. Campaign Contribution Disclosure Form

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B). **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

3. Cost

Offerors must complete the Cost Response Form in APPENDIX D. Cost will be measured by the following categories: Administration, Facilitation/Training, Art Activations, Cultural History Series, Reporting/Evaluation.

4. Local Preference

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors **MUST** include a copy, in this section, of its NM Resident preference certificate, as issued by the New Mexico Taxation and Revenue Department.

V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of individual potential Offeror proposals by sub-category.

Evaluation Factors *(Correspond to section IV.B and IV C)*	**Points Available**
B. Technical Specifications	
B. 1. Organizational Experience	50
B. 2. Organizational References	15
C. Business Specifications	
C.1. Letter Of Transmittal	Pass/Fail
C.2. Campaign Contribution Disclosure Form	Pass/Fail
C. 3. Oral Presentation	20
C.4. Cost	15
TOTAL POINTS AVAILABLE	100
C.5. City of Santa Fe Local Preference per Section IV C. 2	**3**
C.6. City of Santa Fe Local Preference using Local Subcontractors Section IV C.2	**6**

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

1. B.1 Organizational Experience (See Table 1) 45 points

Points will be awarded based on the thoroughness and clarity of Offeror's response in this Section. The Evaluation Committee will also weigh the relevancy and extent of Offeror's experience, expertise and knowledge; and of personnel education, experience and certifications/licenses. In addition, points will be awarded based on Offeror's candid and well-thought-out response to successes and failures, as well as the ability of the Offeror to learn from its failures and grow from its successes.

2. B.2 Organizational References (See Table 1) 15 points

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (Appendix F). Offeror will be evaluated on references that show positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Points will be awarded for each individual response up to 1/3 of the total points for this category. Lack of a response will receive zero (0) points.

The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the City reserves the right to consider any and all information available to it (outside of the Organizational Reference information required herein), in its evaluation of Offeror responsibility per Section II.C.18.

3. **C.1 Letter of Transmittal (See Table 1)**
   Pass/Fail only. No points assigned.

4. **C.2 Campaign Contribution Disclosure Form (See Table 1)**
   Pass/Fail only. No points assigned.

5. **C.3 Oral Presentation (See Table 1) – 20 points**

   Points will be awarded based on the quality, organization and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. Prior to Oral Presentation, Agency will provide the Offeror a presentation agenda.

6. **C.4 Cost (See Table 1) 15 points**

The evaluation of each Offeror's cost proposal will be conducted using the following formula:

Lowest Responsive Offeror's Cost
---------- X Available Award Points
Each Offeror's Cost

7. **C.5. Local Preferences**
   Percentages will be determined based upon the point-based system outlined below.

A. The City shall award additional 3% of the total weight of all the factors used in evaluating the proposal to a local resident business. The City shall award an additional 3% of the total weight of all the factors used in evaluating the proposal to a non-local resident business who has hired all local resident business subcontractors.

B. When the City makes a purchase using a formal request for proposal process and the contract is awarded based on a point-based system, the City shall award additional point's equivalent to 3% of the total possible points to a local resident business. The City shall award an additional 3% of the total possible points to a business who has hired all local resident business subcontractors.

The maximum available local preference shall be 6%.

C. Solicitations above One Million Dollars ($1,000,000)

a. The City shall deem a bid or proposal submitted by a resident business to be 6% lower than the bid actually submitted, if and only if at least 50% of the subcontracted services go to subcontractors who are resident businesses.

b. The City shall deem the bid or proposal submitted by a non-local resident business to be 3% lower than the bid actually submitted, if and only at least 50% of the sub- contracted services go to subcontractors who are resident businesses.

C. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.

2. The Central Purchasing Office or/and the Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.

3. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value in Section V. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. In accordance with 13-1-117 NMSA 1978, the responsible Offerors whose proposals are most advantageous to the City taking into consideration the Evaluation Factors in Section V will be recommended for award (as specified in Section II.B.12). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM

APPENDIX A

REQUEST FOR PROPOSAL
Culture, History, Art, Reconciliation and Truth (CHART) Initiative: Consultant Team
21/30/P
ACKNOWLEDGEMENT OF RECEIPT FORM

This Acknowledgement of Receipt Form should be signed and submitted no later than 3pm MST, March 16 2021. Only potential Offerors who elect to return this form will receive copies of all submitted questions and the written responses to those questions, as well as any RFP amendments, if any are issued.

In acknowledgement of receipt of this Request for Proposal, the undersigned agrees that he or she has received a complete copy of the RFP, beginning with the title page, and ending with APPENDIX I.

The name and address below will be used for all correspondence related to the Request for Proposal.

ORGANIZATION: _____

CONTACT NAME: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

Submit Acknowledgement of Receipt Form to:
To: Central Purchasing
E-mail: Purchasing@santafenm.gov
Subject Line: **CHART Initiative: Consultant Team**
21/30/P

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, a prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars ($250) over the two-year period. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

A prospective contractor or a family member or representative of the prospective contractor shall not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

"**Applicable public official**" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

"**Campaign Contribution**" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that

official's behalf for the purpose of electing the official to statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

"**Family member**" means a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor;

"**Pendency of the procurement process**" means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

"**Prospective contractor**" means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code [Sections 13-1-28 through 13-1-199 NMSA 1978] or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or small purchase contract.

"**Representative of a prospective contractor**" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any:

Mayor Alan M Webber
Councilor Signe Lindell, Pro-tem
Councilor Renee Villarreal
Councilor Michael Garcia
Councilor Carol Romero-Wirth
Councilor Roman Tiger Abeyta
Councilor Christopher Rivera
Councilor Joanne Vigil Coppler
Councilor Jaime Cassutt-Sanchez

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____
_____

Amount(s) of Contribution(s) _____
_____

Nature of Contribution(s) _____
_____

Purpose of Contribution(s) _____

_____

(Attach extra pages if necessary)

_____ _____

Signature Date

_____

Title (position)

--OR—

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS ($250) WERE MADE to an applicable public official by me, a family member or representative.

_____ _____

Signature Date

_____

Title (Position)

APPENDIX C

DRAFT CONTRACT

The Agreement included in this Appendix C represents the contract the City intends to use to make an award. The City of Santa Fe reserves the right to modify the Agreement prior to, or during, the award process, as necessary.

See separate PDF

APPENDIX D

COST RESPONSE FORM

COST RESPONSE FORM

This is a sample form, expand or detail as needed.

Description	Quantity	Cost per Item
Administration		
Facilitation/Training		
Art Activations		
Cultural History Series		
Reporting and Evaluation		

All amounts provided must include all labor, materials, equipment, transportation, configuration, art activation associated costs, installation, training, translation including ASL, childcare, design/graphics, writer/editor, printing, virtual platform costs and profit to provide the goods and/or services described in Section IV.A, (as amended by any current RFP amendments for the period specified).

APPENDIX E

LETTER OF TRANSMITTAL FORM

Letter of Transmittal Form

ITEMS #1 to #4 EACH MUST BE COMPLETED IN FULL (pursuant to Section II.C.30). FAILURE TO RESPOND TO ALL FOUR (4) ITEMS WILL RESULT IN THE DISQUALIFICATION OF OFFEROR'S PROPOSAL! DO NOT LEAVE ANY ITEM BLANK! (N/A, None, Does not apply, etc. are acceptable responses.)

RFP#: 21/30/P

1. **Identify the following information for the submitting organization**:

Offeror Name	
Mailing Address	
Telephone	
FED ID#	
NM CRS#	

2. **Identify the individual(s) authorized by the organization to (A) contractually obligate, (B) negotiate, and/or (C) clarify/respond to queries on behalf of this Offeror**:

	A Contractually Obligate	B Negotiate*	C Clarify/Respond to Queries*
Name			
Title			
E-mail			
Telephone			

* If the individual identified in Column A also performs the functions identified in Columns B & C, then no response is required for those Columns. If separate individuals perform the functions in Columns B and/or C, they must be identified.

3. **Use of subcontractors** (Select one):
____ No subcontractors will be used in the performance of any resultant contract, OR
____ The following subcontractors will be used in the performance of any resultant contract:
_____
(Attach extra sheets, as needed)

4. **Describe any relationship with any entity (such as the City of Santa Fe, State Agency, reseller, etc. that is not a subcontractor(s) listed in #3 above), if any, which will be used in the performance of any resultant contract**. (N/A, None, Does not apply, etc. are acceptable responses to this item.)

_____
(Attach extra sheets, as needed)

By signing the form below, the Authorized Signatory attests to the accuracy and veracity of the information provided on this form, and explicitly acknowledges the following:

- On behalf of the submitting-organization identified in item #1, above, I accept the Conditions Governing the Procurement, as required in Section II.C.1. of this RFP;
- I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP; and
- I acknowledge receipt of any and all amendments to this RFP, if any.

_____ _____, 20_____
Authorized Signature and Date (*Must be signed by the individual identified in item #2.A, above.*)

APPENDIX F

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

The City of Santa Fe, as a part of the RFP process, requires Offerors to list a minimum of three (3) organizational references in their proposals. The purpose of these references is to document Offeror's experience relevant to the Section IV.A, Detailed Scope of Work in an effort to evaluate Offeror's ability to provide goods and/or services, performance under similar contracts, and ability to provide knowledgeable and experienced staffing.

Offeror is required to send the following Organizational Reference Questionnaire to each business reference listed in its proposal, as per Section IV.B.2. The business reference, if it chooses to respond, is required to submit its response to the Organizational Reference Questionnaire directly to: Central Purchasing at Purchasing@santafenm.gov by April 6, 2021 3pm MST/MDT for inclusion in the evaluation process. The Questionnaire and information provided will become a part of the submitted proposal.

Businesses/Organizations providing references may be contacted for validation of content provided therein.

RFP # 21/30/P
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:

_____

(Name of Offeror)

This form is being submitted to your company for completion as a reference for the organization listed above. This Questionnaire is to be submitted to the City of Santa Fe, Arts and Culture and Community Engagement Departments via e-mail at:

Name: Central Purchasing Office
Email: Purchasing@santafenm.gov

Forms must be submitted no later than April 6, 2021 3pm MST/MDT and **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide comments in response to organizational ratings.

For questions or concerns regarding this form, please contact the City of Santa Fe **Procurement Manager** at Sam Burnett, jsburnett@santafenm.gov When contacting the Procurement Manager, include the Request for Proposal number provided at the top of this page.

Organization providing reference	
Contact name and title/position	
Contact telephone number(s)	
Contact e-mail address	
Project description	
Project dates (start and end dates)	
Technical environment for the project your providing a reference (i.e., Administration, Facilitation/Training of community centered processes, public art activations, coordinating Cultural History Series/public programming and Reporting and Evaluation	

QUESTIONS:

1. In what capacity have you worked with this vendor in the past?
   COMMENTS:

2. How would you rate this firm's knowledge and expertise?
   ____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
   COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?

   _____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

   COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the vendor?

   _____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, N/A = Not applicable)

   COMMENTS:

5. How would you rate the dynamics/interaction between vendor personnel and your staff?

   _____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

   COMMENTS:

6. Who are/were the vendor's principal representatives involved in your project and how would you rate them individually? Would you, please, comment on the skills, knowledge, behaviors or other factors on which you based the rating?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: _____Rating:

Name: _____Rating:

Name: _____Rating:

Name: _____Rating:

COMMENTS:

7. How satisfied are/were you with the products developed by the vendor?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, N/A = Not applicable)

COMMENTS:

8. With which aspect(s) of this vendor's services are/were you most satisfied?

COMMENTS:

9. With which aspect(s) of this vendor's services are/were you least satisfied?

COMMENTS:

10. Would you recommend this vendor's services to your organization again?

COMMENTS:

APPENDIX G

NON-COLLUSION AFFIDAVIT

NON-COLLUSION AFFIDAVIT

Complete, Sign and Return with your proposal.

I hereby affirm that: I am the _____ (insert title) and the duly authorized representative of _____ (insert organization's name) whose address is _____.
And, that I possess the legal authority to make this affidavit on behalf of myself and the firm for which I am acting.

I affirm:

1. I am fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal.

2. Such proposal is genuine and is not a collusive or sham proposal.

3. Neither the said Offeror nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any Offeror, firm or person to submit a collusive or sham proposal in connection with the Contract for which the attached proposal has been submitted or to refrain from offering a proposal in connection with the Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Offeror, firm or person to fix the price or prices in the attached proposal or of any other Offeror, or to fix any overhead, profit or cost element of the proposal or the offer price of any other Offeror, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Mayor and Council of City of Santa Fe, New Mexico or any person interested in the proposed Contract; and

4. The price or prices quoted in the attached proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Offeror or any of its agents, representatives, owners, employees, or parties in interest, including this affiant. I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

Signature _____

Printed Name _____

Title _____

Date _____

APPENDIX H

CONFLICT OF INTEREST

CONFLICT OF INTEREST STATEMENT FOR CONSULTING FIRMS

Complete, sign and return with your proposal.

The City of Santa Fe policy is to prevent personal or organizational conflict of interest, or the appearance of such conflict of interest, in the award and administration of City contracts and Purchase Orders.

The Offeror shall comply with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978 and include a full disclosure of all potential organization conflicts of interest in the Proposal.

In addition to the Consultant Team, each key personnel shall also complete the Conflict of Interest Form below certifying that the entity has read and understands the City's policy regarding conflict of interest and the CFR. Each key personnel must also certify that there is no conflict of interest with the Project. If there is a conflict with the Project, then the Consultant Team and known key personnel needs to describe the conflict.

The Consultant Team agrees that, if after award, an organizational conflict of interest is discovered, the Consultant Team makes an immediate and full written disclosure to the City that includes a description of the action that the Consultant Team has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the City may, at its discretion, cancel the contract for the Project. If the Consultant Team was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to the City, the City may terminate the contract for default.

The City may disqualify an Offeror if any of its key personnel belong to more than one Submitter organization/firm.

I, _____ certify that I/We have no personal or financial interests and no present employment or activity which would be incompatible with this firm's participation in any activity related to the RFP or execution of the awarded **Culture, History, Art, Reconciliation and Truth (CHART) Initiative: Consultant Team.** For the duration of this firm's involvement in the **Culture, History, Art, Reconciliation and Truth (CHART) Initiative: Consultant Team** contract, this firm agrees not to accept any gift, benefit, gratuity or consideration, or begin a personal or financial interest in a party who is bidding and/or proposing, or associated with a bidder and/or Offeror on the **Culture, History, Art, Reconciliation and Truth (CHART) Initiative: Consultant Team** contract.

I certify that this firm will keep all **Culture, History, Art, Reconciliation and Truth**

(CHART) Initiative: Consultant Team contract information confidential and secure. This organization will not copy, give or otherwise disclose such information to any other person unless the City of Santa Fe has on file a confidentiality agreement signed by the other person, and the disclosure is authorized and necessary to the **Culture, History, Art, Reconciliation and Truth (CHART) Initiative: Consultant Team** contract. I understand that if this firm leaves this **Culture, History, Art, Reconciliation and Truth (CHART) Initiative: Consultant Team** contract before it ends, this firm must still keep all contract information confidential. I agree to follow any instructions provided by the City relating to the confidentiality of the **Culture, History, Art, Reconciliation and Truth (CHART) Initiative: Consultant Team** contract information. I fully understand that any unauthorized disclosure made by this firm may be a basis for civil or criminal penalties. I agree to advise the City's Procurement Officer, at 505-955-6432 immediately in the event that I or another person within this organization either learn or have reason to believe that any person who has access to the **Culture, History, Art, Reconciliation and Truth (CHART) Initiative: Consultant Team** contract confidential information has or intends to disclose that information in violation of this agreement.

This statement must be fully completed and signed by an authorized representative.

Company Name:

_____

Authorized Representative/Title:

_____

Phone Number:

_____

Fax Number:

_____

E-mail Address:

_____

Signature:

_____

Date:

_____

____

The above information is subject to verification by the City of Santa Fe. If the City finds a misrepresentation, the bid may be automatically disqualified from the procurement process or the contract may be canceled.

APPENDIX I

LIVING WAGE ORDINANCE

City of Santa Fe Living Wage Ordinance

PURSUANT TO THE CITY OF SANTA FE LIVING WAGE ORDINANCE, SECTION 28-1 SFCC 1987 EFFECTIVE MARCH 1, 2021 ALL WORKERS WITHIN THE CITY OF SANTA FE SHALL BE PAID A LIVING WAGE OF

$12.32 PER HOUR

Santa Fe's Living Wage

- The Santa Fe Living Wage Ordinance establishes minimum hourly wages.
- The March Living Wage increase corresponds to the increase in the Consumer Price Index (CPI).
- All employers required to have a business license or registration from the City of Santa Fe ("City") must pay at least the adjusted Living Wage to employees for all hours worked within the Santa Fe city limits.

Who is Required to Pay the Living Wage?

- The City to all full-time permanent workers employed by the City;
- Contractors for the City, that have a contract requiring the performance of a service but excluding purchases of goods;
- Businesses receiving assistance relating to economic development in the form of grants, subsidies, loan guarantees or industrial revenue bonds in excess of twenty-five thousand dollars ($25,000) for the duration of the City grant or subsidy;
- Businesses required to have a business license or registration from the City; and
- Nonprofit organizations, except for those whose primary source of funds is from Medic-aid waivers.
- For workers who customarily receive more than one hundred dollars ($100) per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited towards satisfaction of the Living Wage provided that, for tipped workers, all tips received by such workers are retained by the workers, except that the pooling of tips among workers shall be permitted.

More Information, including the Living Wage Ordinance, is available at
http://www.santafenm.gov
(Click on Hot Topics/Living Wage)

Item#_____
Munis Contract#___3202772___

CITY OF SANTA FE

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **ARFTUL LIFE, LLC.** , hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

RECITALS

WHEREAS, on January 13, 2021, the City Council adopted Resolution 2021-06, *Hosting Community Conversations on Santa Fe Cultures, Histories, Reconciliation, and Truth* (CHART);

WHEREAS, this Resolution called for the City will establish a City project team to provide sufficient organizational and logistics support for a community-centered process;

WHEREAS, numerous charitable, non-profits, and individuals, are invested in this community and desire to fundraise and contribute to the City's goals toward Reconciliation; and

WHEREAS, the City desires to engage a consultant to facilitate this process.

AGREEMENT

IT IS AGREED BETWEEN THE PARTIES THAT ARTFUL LIFE, LLC WILL PROVIDE THE FOLLOWING:

1. Scope of Work.

A. The CHART Consultant Team will be the lead to fulfill the Resolution's framework through:

Administration

1) Design the community dialogue sessions, one-on-one interviews, online survey and Community Solutions Table with an evaluator to ensure equity, inclusion and non-bias questions/framing

2) Manage an engagement calendar and schedule of online and in-person convenings, interviews and other interaction as needed
3) Identify and train a team of facilitators for community dialogue sessions, one-on-one interviews, online survey and Community Solutions Table
4) Pair facilitators or co-facilitators with conveners of organizational and community dialogue sessions
5) Conduct regular check in sessions for facilitators.
6) Ensure multi-lingual and accessibility access including not limited to child care when in person meetings are allowable by State Public Health Order
7) Collaborate with the City project team on city-wide outreach including but not limited to organizations and individuals
8) Coordinate and set meeting schedules with the City project team
9) Participate in weekly check-ins with the City project team regarding logistics and schedules
10) Design, coordinate, implement and manage Communications including social media, press releases, website, written summary reports, etc in coordination with the City's Communication's Director
11) Provide regular updates to the Governing Body on the status of the CHART process
12) Bi-lingual Spanish and other languages including American Sign Language as needed

Facilitation/Training

1) Provide implicit and anti-racism training sessions to but not limited to City elected officials, City Project Team, City Directors and/or others as identified by the City
2) Convening of community dialogue sessions by organizations
3) Facilitate, as appropriate, a number of community dialogue sessions open generally to community members unaffiliated with a particular community organization
4) Facilitate one-on-one interviews
5) Facilitate Community Solutions Table
6) Facilitate convenings primarily via online platforms, although some in-person sessions may be public health criteria status.
7) Bi-lingual Spanish and other languages including American Sign Language as needed

Art Activations

1) Engage Santa Fe's artistic and cultural community to produce 5-8 art activations modeled on but not exclusive to Paper Monuments
   Undertake artist outreach that includes all mediums, ages and career levels particularly with focus on Black Indigenous People of Color, Lesbian Gay Bisexual Trans Queer and non-binary and those from traditionally disenfranchised communities
2) Provide artists to be paid as possible
3) Identify locations for art activations include but not limited to the downtown Plaza as well as midtown and southside of Santa Fe
4) Utilize artist selection process that is call format and is to be as accessible as possible through simplified application
5) Coordinate with the City for site identification
6) Provide bi-lingual Spanish and other languages including American Sign Language as needed

Cultural History Series

1) Create series focusing on Santa Fe and Northern New Mexico's history, present and future for both online and in person (when feasible)
2) Engage with historians, artists, culture bearers, storytellers, scientists, makers, etc. in formats that will engage a wide range of ages and interests – examples include panels, speaker series, pecha kuchas, interviews, storytelling, performance, etc.
3) Record and document all sessions for access to the public via City website/youtube or similar
4) Evaluate each session for efficacy and impact

Reporting and Evaluation

1) Will be responsible for summarizing and/or collecting discussions notes from all engagements (convenings, interviews, survey) for the Community Solutions Table
2) Create and implement an evaluation for both participants and trained team facilitators on the process and outcomes
3) Use of data visualization, infographics, dashboards etc. that expresses data in various representation to convey the stories and information behind the numbers
4) Create a Final Report on the CHART Initiative (convenings, surveys, interviews, art activations, cultural history series, etc) in a format for use and consideration by the Governing Body to inform its deliberation and evaluation for future process, action, and decisions and include but not limited to recommendations for continued city-wide engagement
5) Create content for communications for updates and outreach in both digital and print in both Spanish and English, other languages as necessary

B. *Performance Measures.*

The Contractor shall substantially perform the following Performance Measures:

1) Prepare Regularly scheduled updates TBD and a Final Report on the process in a format for use and consideration by the Governing Body to inform its deliberation and evaluation for future process, action, and decisions and include but not limited to recommendations for continued city-wide engagement;

The receipt of the deliverables contemplated under this Agreement shall assist the City in obtaining its goal(s) as set forth in Resolution 2021-06.

2. Compensation.

A. The City shall pay to Artful Life, LLC in full payment for services satisfactorily performed at the rate of two hundred fifty four thousand dollars ($254,000) BASED UPON DELIVERABLES, MILESTONES, such compensation not to exceed ($254,000), including gross receipts tax. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($254,000). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE

received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

D. The City shall pay to the Contractor based on a fixed price for each Deliverable item listed here:

Deliverable Item: Amount:

01: Upon contract execution and submittal of work plan: $129,000

02: Scope of Work Activities detailed in work plan for July through October, 2021: $50,000

Administration: Design dialogue sessions, interviews, survey; Create and manage engagement calendar; Recruit, train and/or manage facilitator and convener teams; 1, Design survey; Collaborate w/City Project Team; Manage communications (including w/City); Update Governing.
Facilitation: Identify bias trainer and design trainings; Implicit Bias Trainings/City; Implement/Administer survey; Community Dialogue Sessions; One-on-one interviews.
Art Activations: Design art activations with dates and locations; Create call for artists/cultural practitioners; Distribute call; Hire and train artist team; Art activation events.
Cultural History Series: Design series; Series events; Evaluation of Cultural History Series. **Reporting & Evaluation:** Create evaluation tools; Implement evaluation tools; , Collect data.

03: Scope of Work Activities detailed in work plan for November 2021-March 2022: $50,000

Administration: Create and manage engagement calendar; Manage facilitator and convener team(s); Collaborate w/City Project Team; Manage communications (including w/City); Update Governing Body. **Facilitation:** Implicit Bias Trainings/City; Implement/Administer survey; Community Dialogue Sessions; One-on-one interviews; Community Solutions Table.
Art Activations: Art activation events.
Cultural History Series: Series events; Evaluation. **Reporting & Evaluation:** Implement

evaluation tools; Collect data; Analyze data.

04: Scope of Work Activities detailed in work plan April-June 2022 including Present Recommendations and Final Report to Governing Body: $25,000

Administration: Collaborate w/City Project Team; Manage communications (including w/City); 11,12, Update Governing Body.

Cultural History Series: Evaluation.

Reporting & Evaluation: Implement evaluation tools; Collect data; Analyze data; Create final report; Present Recommendations and Final Report.

The total compensation under this Agreement shall not exceed two hundred fifty four thousand dollars ($254,000) including New Mexico gross receipts tax.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2022** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of City funds or due to the Appropriations paragraph herein. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE City's OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

B. Termination Management. Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and

3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Council, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any
claims for money due or to become due under this Agreement without the prior written approval of the City.

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

13. Amendment.

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days

of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Entire Agreement.

This Agreement, together with any other documents incorporated herein by reference and all related Exhibits and Schedules constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter. In the event of any inconsistency between the statements in the body of this Agreement, and the related Exhibits and Schedules, the statements in the body of this Agreement shall control.

15. Penalties for violation 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.

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor 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 be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

19. Professional Liability Insurance.

Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

20. Other Insurance

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. Contractor shall maintain the above insurance for the term of this Agreement and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

21. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments

22. Indemnification.

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

23. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Agreement 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 in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

24. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

25. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

26. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: Pauline Kanako Kamiyama, Director, Arts and Culture Department
201 W Marcy Street
PO Box 909
Santa Fe, NM 87504
pkkamiyama@santafenm.gov

To the Contractor: Valerie Martinez, Founding Director, Artful Life, LLC
3112 Camino Real Ct, NE
Albuquerque, NM 87111
valerie@artful-life.org

27. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE:_____

CONTRACTOR:

Valerie Martinez
Valerie Martinez (Jun 4, 2021 16:05 MDT)

Valerie Martinez
Executive Director, Artful Life, LLC.

DATE: 6/4/2021
CRS#_03-356124-00-9
Registration # _230535

ATTEST:

_____
KRISTINE BUSTOS MIHELCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jun 4, 2021 14:25 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
MARY MCCOY, FINANCE DIRECTOR
Constituents Services/Other Consulting: 1002575/510340 AJH
AJH
Org. Name/Org#.

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3202772**

Contractor: **Artful Life, LLC**

Description: **CHART Consultant team from RFP21/30/P**

Contract ☉ Agreement ○ Lease / Rent ○ Amendment ○

Term Start Date: **date of contract exec** Term End Date: **June 30,2022**

☐ Approved by Council Date: _____

Contract / Lease: **contract**

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY** of Contract, Amendments & Lease / Rent - **Please Elaborate** (option: attach spreadsheet if multiple amendments)
Governing Body passed a resolution establishing the CHART process and Consultant team; RFP was issued and the Artful Life, LLC was the selected offerer.

3. **Procurement History:** _____

Fran Dreamay
Fran Dreamay (Jun 8, 2021 10:27 MDT)

Purchasing Officer Review: Jun 8, 2021 Date:

Comment & Exceptions: RFP was issued and award is set to begin July 1, 2021 -award was delayed with Department

4. **Funding Source:** 1002575.510340 **Org / Object:** _____

Andy Hopkins
Andy Hopkins (Jun 8, 2021 10:21 MDT)

Budget Officer Approval: Jun 8, 2021 Date:

Comment & Exceptions: _____

Staff Contact who completed this form: _____ Phone # _____

Email: _____

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/04/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Simply Business 1 Beacon Street 15th Floor Boston, MA 02108	CONTACT NAME:	Simply Business
		PHONE (A/C, No, Ext):	(844) 654-7272 FAX (A/C, No):
		E-MAIL ADDRESS:	contactus@simplybusiness.com
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A :	Hiscox Insurance Company Inc 10200
INSURED	Artful Life LLC 3112 Camino Real Court NE Albuquerque, New Mexico 87111	INSURER B :	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	
	CLAIMS-MADE OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	
							MED EXP (Any one person)	
							PERSONAL & ADV INJURY	
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	
	OTHER:							
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	
	ANY AUTO						BODILY INJURY (Per person)	
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	
	DED RETENTION							
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						PER STATUTE OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE	N / A					E.L. EACH ACCIDENT	
	OFFICER/MEMBEREXCLUDED? (Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	
A	PROFESSIONAL LIABILITY			HIUS3138182XB	07/01/2021	07/01/2022	EACH CLAIM	$1,000,000.00
							AGGREGATE	$1,000,000.00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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City of Santa Fe

Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: ARTFUL LIFE LLC
DBA: ARTFUL LIFE

Business Location: 3112 CAMINO REAL CT NE
ALBUQUERQUE, NM 87111

CRS Number: 03356124009

Owner: Valerie Martinez

License Number: 230535

License Type: Business License - Renewable

Issued Date: June 08, 2021

Classification: Out of Jurisdiction Business License

Expiration Date: June 08, 2022

Fees Paid: $10.00

ARTFUL LIFE LLC
3112 CAMINO REAL CT NE NE
ALBUQUERQUE, NM 87111

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 TRANSFERRABLE TO OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE

ACTION SHEET
PUBLIC WORKS AND UTILITES COMMITTEE MEETING OF 07/12/2021

ISSUE NO. 8a

Request for Approval of a Professional Services Contract in the Total Amount of $254,000 for CHART Consultant Team; Artful Life, LLC. (Pauline Kanako Kamiyama, Arts and Culture Department Director: pkkamiyama@santafenm.gov, 955-470-8482; Kristine Mihelcic, City Clerk and Community Engagement Department Director: kmmihelcic@santafenm.gov, 955-6846)

Committee Review:
Finance Committee: 07/06/21
Quality of Life Committee: 07/07/21
Public Works and Utilities Committee: 07/12/21
Governing Body: 07/14/21

PUBLIC WORKS AND UTILITES COMMITTEE ACTION: Pulled by Councilor Vigil Coppler, Approved unanimously to forward to 7/14/2021 Governing Body with the motion that this item go on consent, get pulled and go into executive session.

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		

ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 07/07/2021
FOR CITY COUNCIL MEETING OF 07/14/2021

ISSUE:

Request Approval of Budget Amendment Resolution (BAR) for Department of Justice, Office of Justice Programs, FY 20 Coronavirus Emergency Supplemental Funding Grant Award. (Andrew Padilla, Chief of Police: aapadilla@santafenm.gov, 955-5102)

Committee Review:
Finance Committee: 7/6/21
Quality of Life Committee: 7/7/21
Governing Body: 7/14/21

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	X		

ACTION SHEET
/ITEM FROM FINANCE COMMITTEE MEETING OF 07/06/21
FOR CITY COUNCIL MEETING OF 07/14/21

b) Request for Approval of a Professional Services Contract in the Total Amount of $254,000 for CHART Consultant Team; Artful Life, LLC. (Pauline Kanako Kamiyama, Arts and Culture Department Director: pkkamiyama@santafenm.gov, 955-470-8482; Kristine Mihelcic, City Clerk and Community Engagement Department Director: kmmihelcic@santafenm.gov, 955-6846)

Committee	**Review:**
Finance Committee:	7/6/21
Quality of Life Committee:	7/7/21
Public Works and Utilities Committee:	7/12/21
Governing Body: 7/14/21	

FINANCE COMMITTEE ACTION:

Approved on Consent

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

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

City of Santa Fe New Mexico

Memo

DATE: June 22, 2021

TO: Governing Body
Finance Committee
Quality of Life Committee

FROM: _____ 6-23-21
Andrew Padilla, Chief of Police

ITEM AND ISSUE:
Request approval of Budget Amendment Resolution (BAR) for Department of Justice, Office of Justice Programs, FY 20 Coronavirus Emergency Supplemental Funding Grant Award.

BACKGROUND AND SUMMARY:
The City of Santa Fe has been awarded $78,590 from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance "BJA FY 20 Coronavirus Emergency Supplemental Funding Program".

The grant funding is for the purpose of purchasing PPE for Police Department personnel and staff such as gloves, in various sizes, safety glasses, disposable 3 ply masks and KN 95 masks.

The award was signed by the City Manager, Jarel LaPan Hill, on July 9, 2020, as per Ordinance No. 2020-10, Section 1 20-1.4 paragraph E, City Manager Authority: During a state of emergency declared due to the spread of a contagious disease declared to be a public health emergency by the New Mexico Department of Health or recognized by the World Health Organization as a pandemic, the city manager has the authority to take the following actions, sub paragraph 3, approve contracts with a total value up to two hundred thousand dollars ($200,000) excluding gross receipts taxes.

REQUESTED ACTION:
Approval of BAR as submitted.

Attachments:
Grant Award
Budget Amendment Resolution (BAR)

Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Police Department / Administration	5/7/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Operating Supplies	2230315	530200	CORONAEMER	$78,578.00	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Department of Justice-OJP Coronavirus Emer Supp	2230315	490555	CORONAEMER	(78,578)	
					$ -

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

To record Grant Award for Coronavirus Emergency Supplemental Funding for the purpose of purchasing PPE for all Police Department personnel.

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Laura A Vigil 5/7/2021
Prepared By *{print name}* Date

Ana Padilla A. 5/7/21
Division Director Signature *{optional}* Date

Ana Padilla A. 5/7/21
Department Director Signature Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins 5/12/21
Budget Officer Date

N/A
Finance Director *{≤ $5,000}* Date

N/A
City Manager *{≤ $60,000}* Date

Department of Justice (DOJ)
Office of Justice Programs

Office of the Assistant Attorney General *Washington, D.C. 20531*

June 5, 2020

Mr. Jarel LaPan Hill
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87504-1904

Dear Mr. LaPan Hill:

On behalf of Attorney General William P. Barr, it is my pleasure to inform you that the Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), has approved the application by City of Santa Fe for an award under the OJP funding opportunity entitled "BJA FY 20 Coronavirus Emergency Supplemental Funding Program." The approved award amount is $78,590. These funds are for the project entitled Law Enforcement PPE.

The award document, including award conditions, is enclosed. The entire document is to be reviewed carefully before any decision to accept the award. Also, the webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqts.htm) is to be consulted prior to an acceptance. Through that "Legal Notices" webpage, OJP sets out -- by funding opportunity -- certain special circumstances that may or will affect the applicability of one or more award requirements. Any such legal notice pertaining to award requirements that is posted through that webpage is incorporated by reference into the award.

Please note that award requirements include not only award conditions, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. Because these requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds), it is vital that all key staff know the award requirements, and receive the award conditions and the assurances and certifications, as well as the application as approved by OJP. (Information on all pertinent award requirements also must be provided to any subrecipient of the award.)

Should City of Santa Fe accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Please direct questions regarding this award as follows:

- For program questions, contact Elaine Vanlandingham, Program Manager at (202) 305-0034; and

- For financial questions, contact the Customer Service Center of OJP's Office of the Chief Financial Officer at (800) 458-0786, or at ask.ocfo@usdoj.gov.

We look forward to working with you.

Sincerely,

Katharine T. Sullivan
Principal Deputy Assistant Attorney General

Encl.

Department of Justice (DOJ)
Office of Justice Programs
Office of Civil Rights

Washington, DC 20531

June 5, 2020

Mr. Jarel LaPan Hill
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87504-1904

Dear Mr. LaPan Hill:

Congratulations on your recent award. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, require recipients of federal financial assistance to give assurances that they will comply with those laws. In addition to those civil rights laws, many grant program statutes contain nondiscrimination provisions that require compliance with them as a condition of receiving federal financial assistance. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with OJP and other DOJ awards, see https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a non-discriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5). Please submit information about any adverse finding to the OCR at the above address.

We at the OCR are available to help you and your organization meet the civil rights requirements that are associated with OJP and other DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to let us know.

Sincerely,

Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

Department of Justice (DOJ)

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Categorical Exclusion for City of Santa Fe

The Coronavirus Emergency Supplemental Funding (CESF) Program allows eligible states, local units of government, and tribes to support a broad range of activities including preventing, preparing for, and responding to the coronavirus.

All recipients of CESF funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a sub-grantee or third party.

BJA's expectation is that none of the following activities will be conducted whether under this federal award or a related third party action:
(1) New construction
(2) Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species
(3) A renovation that will change the basic prior use of a facility or significantly change its size
(4) Research and technology whose anticipated and future application could be expected to have an effect on the environment
(5) Implementation of a program involving the use of chemicals (including the identification, seizure, or closure of clandestine methamphetamine laboratories) other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments.

Consequently, the subject federal action meets the Office of Justice Programs' criteria for a categorical exclusion as contained in paragraph 4(b) of Appendix D to Part 61 of Title 28 of the Code of Federal Regulations.

If, however, award funds are proposed to be used for any of the enumerated projects or activities above, grant recipients must contact their grant manager, and receive written approval prior to commencing that project or activity.

Questions about this determination may be directed to your grant manager or Orbin Terry, Environmental Coordinator for BJA.

ITEM # 20-0289

Department of Justice (DOJ)
Office of Justice Programs
Bureau of Justice Assistance

Grant

PAGE 1 OF 16

1. RECIPIENT NAME AND ADDRESS (Including Zip Code)
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87504-1904

4. AWARD NUMBER: 2020-VD-BX-1762

5. PROJECT PERIOD: FROM 01/20/2020 TO 01/31/2022
BUDGET PERIOD: FROM 01/20/2020 TO 01/31/2022

6. AWARD DATE 06/05/2020

7. ACTION
Initial

2a. GRANTEE IRS/VENDOR NO.
856000168

8. SUPPLEMENT NUMBER
00

2b. GRANTEE DUNS NO.
069420818

9. PREVIOUS AWARD AMOUNT $0

3. PROJECT TITLE
Law Enforcement PPE

10. AMOUNT OF THIS AWARD $78,590

11. TOTAL AWARD $78,590

12. SPECIAL CONDITIONS
THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).

13. STATUTORY AUTHORITY FOR GRANT
This project is supported under FY20(BJA - CESF) Pub. L. No. 116-136, Div. B; 28 U.S.C. 530C

14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)
16.034 - Coronavirus Emergency Supplemental Funding Program

15. METHOD OF PAYMENT
GPRS

AGENCY APPROVAL

16. TYPED NAME AND TITLE OF APPROVING OFFICIAL
Katharine T. Sullivan
Principal Deputy Assistant Attorney General

17. SIGNATURE OF APPROVING OFFICIAL

GRANTEE ACCEPTANCE

18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL
Jarel LaPan Hill
City Manager

Jarel LaPan Hill
Jarel LaPan Hill (Jun 24, 2020 21:30 MDT)

19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL
Jarel LaPan Hill

19A. DATE
7/9/2020

AGENCY USE ONLY

20. ACCOUNTING CLASSIFICATION CODES

FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REG.	SUB.	POMS	AMOUNT
X	B	VD	80	00	00		78590

21. VVDUGT1542

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)

AWARD # 2020-VD-BX-1762

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jun 24, 2020 07:59 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED:
Mary McCoy
MARY McCOY, FINANCE DIRECTOR
2230315.490555

ATTEST:

Yolanda Y. Vigil
YOLANDA Y. VIGIL, CITY CLERK
6-25-20
DATE

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqts.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2020 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2020 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2020 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at https://ojp.gov/funding/Part200UniformRequirements.htm.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at https://ojp.gov/financialguide/DOJ/index.htm), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at https://www.ojp.gov/training/fmts.htm. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at https://www.sam.gov/. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at https://ojp.gov/funding/Explore/SAM.htm (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

9. Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1) and (2).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) and (2) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1) and (2).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or

SPECIAL CONDITIONS

any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1) and (2).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (https://www.e-verify.gov/) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

10. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

11. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at https://ojp.gov/funding/Explore/SubawardAuthorization.htm (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

12. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed $250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, $250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed $250,000)), and are incorporated by reference here.

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

13. Unreasonable restrictions on competition under the award; association with federal government

SCOPE. This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, whether by the recipient or by any subrecipient at any tier, and regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any subaward (at any tier).

1. No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements -- including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business" and taking "[a]ny arbitrary action in the procurement process") -- no recipient (or subrecipient, at any tier) may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. The term "associate of the federal government" means any person or entity engaged or employed (in the past or at present) by or on behalf of the federal government -- as an employee, contractor or subcontractor (at any tier), grant recipient or -subrecipient (at any tier), agent, or otherwise -- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work, project, or activity (or to provide such goods or services) in future.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

SPECIAL CONDITIONS

14. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

15. Determination of suitability to interact with participating minors

SCOPE: This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at https://ojp.gov/funding/Explore/Interact-Minors.htm (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

17. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

18. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm.

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

19. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

20. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

21. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

22. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

23. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at https://www.ecfr.gov/cgi-bin/ECFR?page=browse), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

SPECIAL CONDITIONS

24. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

25. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2020) The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions that may be set out in applicable appropriations acts are indicated at https://ojp.gov/funding/Explore/FY20AppropriationsRestrictions.htm, and are incorporated by reference here. Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at https://oig.justice.gov/hotline/contact-grants.htm (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at https://oig.justice.gov/hotline.

SPECIAL CONDITIONS

27. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

28. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

29. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

30. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

31. Signing Authority

This award must be signed by an authorized official of the applicant State, local, or tribal government, on behalf of that applicant State, unit of local government, or Tribe, unless the applicant designates an organizational unit to apply on its behalf. For example, if designated by a unit of local government, a Police Department or Sheriff's Office (or similar agency) may apply on behalf of the applicant jurisdiction, as long as the department, office, or agency is listed as the organizational unit on the SF-424. In that case, the head of the designated organizational unit (such as a Police Chief or Sheriff) may sign the award. Documentation of the designation by the appropriate governing body must be retained by the grant recipient.

32. The "Emergency Appropriations for Coronavirus Health Response and Agency Operations" law (Public Law 116-136) includes definitions, reporting requirements, and certain other provisions that apply (whether in whole or in part) to this award. In addition, consistent with the CESF Program's purposes, which involve preparing for, preventing, and responding to the coronavirus national emergency, OJP will provide notice of any additional CESF program-specific grants administrative requirements on an award page, accessible at https://www.ojp.gov/funding/explore/CESF-program-specific-condition, that is incorporated by reference here.

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

33. The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

34. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of $25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at https://ojp.gov/funding/Explore/FFATA.htm (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than $25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

35. Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

36. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

37. Justice Information Sharing

Recipients are encouraged to comply any information-sharing projects funded under this award with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) is encouraged to conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://it.ojp.gov/ gsp_grantcondition. The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information.

38. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity.

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

39. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA. The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are: a. New construction; b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places; c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size; d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories. The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/ or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at https:/ / bja.gov/ Funding/ nepa.html, for programs relating to methamphetamine laboratory operations. Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

40. Establishment of interest-bearing account

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish an interest-bearing account dedicated specifically to this award. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The award funds, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Coronavirus Emergency Supplemental Funding (CESF) program . The recipient also agrees to obligate the award funds in the account(including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

41. Expenditures requiring prior approval

No funds under this award may be expended on individual items costing $500,000 or more, or to purchase Unmanned Aerial Systems (UAS), Unmanned Aircraft (UA), and/or Unmanned Aerial Vehicles (UAV) without prior written approval from BJA. Prior approval must be obtained post-award, through the submission and approval of a Grant Adjustment Notice (GAN) through OJP's Grant Management System (GMS).

PROJECT NUMBER 2020-VD-BX-1762 AWARD DATE 06/05/2020

SPECIAL CONDITIONS

42. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after January 20, 2020

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (January 20, 2020), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds.

43. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS. No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA. Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

44. Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: https:/ / nij.gov/ topics/ technology/ body-armor/ pages/ safety-initiative.aspx.

Department of Justice (DOJ)
Office of Justice Programs
Bureau of Justice Assistance

GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY

Grant

PROJECT NUMBER
2020-VD-BX-1762

This project is supported under FY20(BJA - CESF) Pub. L. No. 116-136, Div. B; 28 U.S.C. 530C

1. STAFF CONTACT (Name & telephone number)

Elaine Vanlandingham
(202) 305-0034

2. PROJECT DIRECTOR (Name, address & telephone number)

Laura Vigil
Accounting Supervisor
P O Box 909
2515 Camino Entrada
Santa Fe, NM 87504-0909
(505) 955-5086

3a. TITLE OF THE PROGRAM

BJA FY 20 Coronavirus Emergency Supplemental Funding Program

3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)

4. TITLE OF PROJECT

Law Enforcement PPE

5. NAME & ADDRESS OF GRANTEE

City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87504-1904

6. NAME & ADRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 01/20/2020 TO: 01/31/2022

8. BUDGET PERIOD

FROM: 01/20/2020 TO: 01/31/2022

9. AMOUNT OF AWARD

$ 78,590

10. DATE OF AWARD

06/05/2020

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Coronavirus Emergency Supplemental Funding (CESF) Program allows States, U.S. Territories, the District of Columbia, units of local government, and federally recognized tribal governments to support a broad range of activities to prevent, prepare for, and respond to the coronavirus. Funded projects or initiatives may include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, sanitizer), training, travel expenses (particularly related to the distribution of resources to the most impacted areas), and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.

NCA/NCF

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
[b] a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
[b] a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
[a] a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
[✓] Prime [ ] Subawardee
Tier , *if known*:
City of Santa Fe
P O Box 909
Santa Fe, NM 87504-0909

Congressional District, *if known*: 03

5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
N/A

Congressional District, *if known*:

6. Federal Department/Agency:
US Department of Justice
Office of Justice Programs

7. Federal Program Name/Description:
Coronavirus Emergency Supplemental Funding Program Solicitation
FY 2020 Formula Grant Solicitation
CFDA Number, *if applicable*: 16.034

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$ 78,577.00

10. a. Name and Address of Lobbying Registrant
(if individual. last name. first name. MI):
N/A

b. Individuals Performing Services (*including address if different from No. 10a*)
(last name. first name. MI):
N/A

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.

Signature: Jarel LaPan Hill
Print Name: Jarel LaPan Hill
Title: City Manager
Telephone No.: (505) 955-6848 Date: 5/29/2020

Federal Use Only:

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Standard Form LLL (Rev. 7-97)

ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 07/07/2021
FOR CITY COUNCIL MEETING OF 07/14/2021

ISSUE:

Request Approval of Budget Amendment Resolution (BAR) for New Mexico Department of Transportation Traffic Projects Grant Award. (Andrew Padilla, Chief of Police: aapadilla@santafenm.gov, 955-5102)

Committee Review:
Finance Committee: 7/6/21
Quality of Life Committee: 7/7/21
Governing Body: 7/14/21

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	X		

ACTION SHEET
/ITEM FROM FINANCE COMMITTEE MEETING OF 07/06/21
FOR CITY COUNCIL MEETING OF 07/14/21

c) Request Approval of Budget Amendment Resolution (BAR) for New Mexico Department of Transportation Traffic Projects Grant Award. (Andrew Padilla, Chief of Police: aapadilla@santafenm.gov, 955-5102)

Committee	**Review:**
Finance Committee:	7/6/21
Quality of Life Committee:	7/7/21
Governing Body: 7/14/21	

FINANCE COMMITTEE ACTION:

Approved on Consent

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

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

City of Santa Fe New Mexico

Memo

DATE: June 22, 2021

TO: Governing Body
Finance Committee
Quality of Life Committee

FROM: _____ (6-23-21)
Andrew Padilla, Chief of Police

ITEM AND ISSUE:
Request approval of Budget Amendment Resolution (BAR) for New Mexico Department of Transportation Traffic Projects Grant Award.

BACKGROUND AND SUMMARY:
The City of Santa Fe has been awarded $89,304 from the NM Department of Transportation for funding traffic projects: End Driving While Impaired (ENDWI); Buckle Up (BKLUP)/Click it or Ticket (CIOT); Selective Traffic Enforcement Program (STEP) / Summer Enforcement Period Project.

The project funds reimburse the City of Santa Fe Police Department for eligible expenses required to conduct projects aimed at reducing traffic-related injuries and deaths. ENDWI Project for $44,722 will allow officers to conduct sobriety checkpoints and DWI directed enforcement patrols in high crash locations identified in data compiled by local, state or federal government agencies and included in the City's Operational Plan. Buckle Up/Click it or Ticket Project for $14,250 is to conduct occupant protection directed enforcement patrols in high crash locations. STEP and Summer Enforcement Program Project for $30,332 is to conduct directed enforcement patrols in high crash locations identified and included in the City's Operational Plan.

The award was signed by the City Manager, Jarel LaPan Hill, on February 4, 2021, as per Ordinance No. 2020-10, Section 1 20-1.4 paragraph E, City Manager Authority: During a state of emergency declared due to the spread of a contagious Disease declared to be a public health emergency by the New Mexico Department of Health or recognized by the World Health Organization as a pandemic, the city manager has the authority to take the following actions, sub paragraph 3, approve contracts with a total value up to two hundred thousand dollars ($200,000) excluding gross receipts taxes.

REQUESTED ACTION:
Approval of BAR as submitted.

Attachments:
Grant Award
Budget Amendment Resolution (BAR)

Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
POLICE / ADMINISTRATION	06/11/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Police Overtime	1000065	501400		89,304	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
NM Dept of Transportation - State Grants	1000001	490150		(89,304)	
				$ -	$ -

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

To record NM Department of Transportation traffic projects; ENDWI $44,722; BKLUP and CIOT $ 14,250; STEP $30,332

Total $89,304

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Laura A Vigil — 6/11/2021
Prepared By *{print name}* — Date

Benjamin Valdez — 6/11/2021
Division Director Signature *{optional}* — Date

Department Director Signature — Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

CONTRACT NUMBER:_____
GRANTEE DUNS NUMBER: 069420818
VENDOR NUMBER: 0000054360

GRANT AGREEMENT

This Grant Agreement (**Agreement**) is between the New Mexico Department of Transportation (**Department**) and City of Santa Fe (**Grantee**), collectively referred to as "the Parties." This Agreement is effective as of the date of the last party to sign it on the signature page below. The Department and the Grantee agree as follows:

1. **Award.** The Department hereby awards the Grantee funding for the following projects:

   a. End Driving While Impaired (**ENDWI**), Project No. 01-AL-64-090, $44,722.00;
   b. Buckle Up (**BKLUP**)/Click It or Ticket (**CIOT**), Project No. 01-OP-RF-090, $14,250.00;
   c. Selective Traffic Enforcement Program (**STEP**), Project No. 01-PT-RF-090, $30,332.00;
   d. Total Funding awarded per this Agreement $89,304.00.

2. **Scope of Work.** The Grantee shall perform the professional services stated in the following exhibits: **Exhibit A** - ENDWI; **Exhibit B** - BKLUP/CIOT; **Exhibit C** - STEP.

3. **Payment.** To be reimbursed for eligible expenses, the Grantee must submit timely, properly prepared reimbursement requests as provided in the Department's Electronic Grant Management System or the Traffic Safety Division Financial Management Manual 2019, as directed by the Department. The Grantee acknowledges that the Department will not pay for any expenses incurred prior to both Parties signing the Agreement, after termination of the Agreement, or in excess of the amount of the award noted in Section 1. The Grantee must submit its final reimbursement request no later than thirty (30) days after termination of this Agreement, unless otherwise approved by the Department.

4. **Records and Audit.** The Grantee shall strictly account for all receipts and disbursements related to this Agreement. The Grantee shall record costs incurred, services rendered and payment received, and shall maintain these financial records during the term of this Agreement and for three (3) years from the date of submission of the final reimbursement request. On request, the Grantee shall provide the financial records to the Department and the state auditor, and shall allow the Department and the state auditor to inspect or audit these financial records during business hours at the Grantee's principal office during the term of this Agreement and for three (3) years from the date of submission of the final reimbursement request. If the financial records provided by the Grantee are insufficient to support an audit by customary accounting practices, the Grantee shall reimburse the Department for any expense incurred related to the insufficient documentation within thirty (30) days of written notice from the Department. If an audit or inspection reveals that funds were used for expenses not directly related to the project, or otherwise used inappropriately, or that payments were excessive or otherwise erroneous, the Grantee shall reimburse the Department for those funds or payments within thirty days of written notice.

5. **Officials Not to Benefit.** The Parties intend that no member of the New Mexico legislature or the United States Congress, or any public official, public employee or tribal council member, in that person's individual capacity, will benefit from this Agreement.

6. **Termination.** The Department may terminate this Agreement for any reason, by giving the Grantee thirty (30) days written notice. On receipt of a "Notice of Cancellation," the Grantee shall suspend work unless otherwise directed by the Department in writing. The Grantee may only terminate this Agreement based on the Department's uncured, material breach of the Agreement and by giving by giving the Department thirty (30) days' written notice. The Parties acknowledge that termination will not nullify obligations incurred prior to termination.

7. **Appropriations.** The Grantee acknowledges that:

   a. this Agreement is contingent upon sufficient appropriations and authorizations being made by the Congress of the United States or the New Mexico state legislature;
   b. if sufficient appropriations and authorizations are not made, this Agreement will terminate upon written notice by the Department to the Grantee; and
   c. the Department will not expend any funds until they are approved for expenditure, and the Department's determination as to whether approval has been granted will be final.

8. **Compliance with Law.** The Grantee, its employees, agents and contractors, shall comply with the following:

   a. Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the ADA Amendments Act of 2008, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, and 49 C.F.R. Section 21;
   b. all federal and state laws, rules, and regulations, and executive orders of the Governor of the state of New Mexico pertaining to equal employment opportunity, including the Human Rights Act, NMSA 1978, Sections 28-1-1 through 28-1-15 (and in accordance with such, the Grantee states that no person, on the grounds of race, religion, national origin, sex, sexual orientation, gender identity, spousal affiliation, serious medical condition, age, disability, or other protected class will be excluded from employment with or participation in, denied the benefits of, or otherwise subjected to, discrimination in any activity performed under this Agreement; if the Grantee is found to be in violation of any of these requirements, the Grantee shall take prompt and appropriate steps to correct such violation);
   c. state laws applicable to workers compensation benefits for the Grantee's employees, including the Workers' Compensation Act, NMSA 1978, Sections 52-1-1 through 52-1-70, and related regulations;
   d. 2 C.F.R. 200, Subpart F - Audit Requirements, Sections 200.500 - 200.521; and
   e. those sections in **Exhibit D** labeled "applies to subrecipients as well as states."

9. **Notices.** For a notice under this Agreement to be valid, it must be in writing; be delivered by hand, registered or certified mail return receipt requested and postage prepaid, fax or email; and be addressed as follows:

to the Department at:	to the Grantee at:
New Mexico Dept. of Transportation	Santa Fe PD
Attn: Traffic Safety Division	Attn: Chief Andrew Padilla
P.O. Box 1149	2515 Camino Entrada
Santa Fe, NM 87504	Santa Fe, NM 87505

10. **Severability**. The terms of this Agreement are lawful; performance of all duties and obligations shall confirm with and do not contravene any state, local, or federal statute, regulation, rule, or ordinance. The Parties intend that if any provision of this Agreement is held to be unenforceable, the rest of the Agreement will remain in effect as written.

11. **Tort Claims.** Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with the Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*, as amended. This paragraph is intended only to define the liabilities between the Parties and it is not intended to modify in any way, the Parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

12. **Jurisdiction and Venue.** The Grantee acknowledges the jurisdiction of the courts of the state of New Mexico for any adversarial proceeding arising out of this Agreement, and that venue for any such proceeding will be in the First Judicial District Court for the county of Santa Fe, New Mexico.

13. **Project Responsibility.** The Grantee acknowledges that it bears sole responsibility for performing the services referred to in Section 2.

14. **Term.** This Agreement takes effect upon signature of all Parties. If the Grantee does not deliver the signed Agreement to the Department within sixty (60) days of the Department's signature, the Agreement will be voidable by the Department. The Agreement terminates at 12:00 a.m. on September 30, 2021, unless earlier terminated as provided in Section 6 or Section 7.

15. **Applicable Law.** The laws of the state of New Mexico, without giving effect to its choice of law principles, govern all adversarial proceedings arising out of this Agreement.

16. **Amendment.** No amendment of this Agreement will be effective unless it is in writing and signed by the Parties.

17. **No Third-party Beneficiary**. This Agreement does not confer any rights or remedies on anyone other than the Department and the Grantee.

18. **Scope of Agreement and Merger.** This Agreement constitutes the entire understanding between the Parties with respect to the subject matter of the Agreement and supersedes all other Agreements, whether written or oral, between the Parties, except that this Agreement does not supersede the Grantee's rights under any other grant agreement.

19. **Disadvantaged Business Enterprise.** The following provision applies to a USDOT-assisted federally funded Agreement only. The recipient shall not discriminate on the basis of race, color, national origin, sex, or other protected class in the award and performance of any USDOT-assisted

contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

The remainder of this page is intentionally left blank.

Each party is signing this Agreement on the date stated opposite that party's signature. This Agreement is effective as of the date of the last party to sign it on the signature page below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Cabinet Secretary or Designee

SANTA FE, CITY OF

By: Jarel LaPan Hill (Feb 4, 2021 08:56 MST) Date: Feb 4, 2021

Title: City Manager

Approved as to form and legal sufficiency.

By: _____ Date: Dec 18, 2020
Assistant General Counsel
Department of Transportation

Approved as to form and legal sufficiency.

By: Marcos Martinez (Feb 23, 2021 08:38 MST) Date: Feb 23, 2021

Title: Senior Assistant City Attorney

Exhibit A: Scope of Work, Training, Reimbursement and Reporting

END DRIVING WHILE IMPAIRED (ENDWI) Project Number: 01-AL-64-090

1. **Scope of Work.** The Grantee shall conduct sobriety checkpoints (SCs) and DWI directed enforcement patrols (DDEPs) as negotiated between the Department and the Grantee, in high crash locations identified in data compiled by local, state or federal government agencies and included the Grantee's Operational Plan. The Department encourages the Grantee to accompany SCs and DDEPs with public information, media and educational activities. SCs must be scheduled to be staffed by at least 9 officers and must last at least 5 hours. If for any reason, the SC is not staffed with the minimum number of officers or was not conducted for the minimum number of hours, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for SCs based on the justification. DDEPs must deploy officers in high crash locations consistent with the enforcement plan. If for any reason, the DDEPs were conducted in areas not consistent with the enforcement plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for DDEPs based on the justification. The Grantee is encourage to schedule SCs and DDEPs throughout the grant period with a focus on participating during the Superblitz Period, 3 Mini Superblitz Periods, and National DWI Mobilizations as identified below.

2. **Definitions.** For purposes of this exhibit, the following definitions apply:

   "Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the Agreement.

   "Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistent with the agency's operational plan.

   "Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

   "Winter Superblitz Period" means November 13, 2020 to January 2, 2021.

   "St. Patrick's Day Mini Superblitz Period" means March 12 to March 20, 2021.

   "Cinco de Mayo May Mini Superblitz Period" means May 1 to May 7, 2021.

   "Fourth of July Mini Superblitz Period" means July 1 to July 8, 2021.

   "National DWI Mobilization Period" means August 20 to September 6, 2021.

3. **Training and Qualifications.** The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee's participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. **Reimbursement.** The Department will pay the Grantee for the actual cost paid to personnel that worked the SCs and DDEPs. Claims for payment must specify officers' actual hourly rate of overtime pay based on the Grantee's overtime policy; the Department will not pay any amount in excess of that rate or for any amount that is not above and beyond the officers normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31, 2021. If the final claim is submitted after October 31, 2021, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

   a. pay, including overtime, for officers conducting traffic safety DWI enforcement in areas consistent with the enforcement plan;
   b. pay, including overtime, for officers attendance at administrative license revocation hearings and court hearings directly related to DWI arrests made while participating in the ENDWI program;
   c. overtime costs for officers or civilian employees to dispatch or process paperwork directly related to the SCs and/or DDEPs conducted during the claim month. The Grantee can only claim up to 10 percent of the total monthly claim amount; and
   d. in state travel and related expenses for officers to attend DWI related training approved by the Department in advance, and shall be reimbursed in accordance with the Regulation Governing the New Mexico Per Diem and Mileage Act, 2.42.2 NMAC.

5. **Reporting.** *The Grantee must submit activity reports by the 10th of each month using the activity report form provided unless otherwise directed by the Department.* Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, Section 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, Section 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. **Funding.** The Department expects the funding source to be 23 U.S.C. Section 164 and the Catalog of Federal Domestic Assistance (CFDA) number to be 20.608. However, both funding source and CFDA number are subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	$44,722.00
Contractual Services	$0.00
Commodities	$0.00
Indirect	$0.00
Other	$0.00
TOTAL	$44,722.00

7. **Goals.** The Department's performance goals for the state are as follows: Five-year average alcohol-impaired fatality data show a relatively stable trendline from 2014 to 2018, and projected data through 2021 shows the trendline remaining stable. Given this data and the State's continued focus on reducing drunk driving through ENDWI and the National Drive Sober or Get Pulled Over enforcement and media efforts, the State has determined to set the five-year average projection of 110 as the 2021 target

8. **Equipment.** The Grantee may only purchase equipment under this Agreement with prior written approval of the Department.

Exhibit B: Scope of Work, Training, Reimbursement and Reporting

BUCKLE UP (BKLUP) and CLICK IT OR TICKET (CIOT) Project Number: 01-OP-RF-090

1. **Scope of Work.** The Grantee shall conduct occupant protection directed enforcement patrols (ODEPs) in high crash locations identified in data compiled by local, state or federal government agencies and the Grantee's Operational Plan. The Department encourages the Grantee to accompany the ODEPs with public information, media and educational activities. ODEPs must deploy officers in high crash locations consistent with the enforcement plan for occupant protection issues. If for any reason, the ODEPs were conducted in areas not consistent with the enforcement plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for ODEPs based on the justification. The Grantee is encouraged to schedule ODEPs throughout the grant period with a focus on participating during the Superblitz Period, 3 Mini Superblitz Periods, National DWI Mobilizations and the National Click It or Ticket Mobilizations identified below.

2. **Definitions.** For purposes of this exhibit, the following definitions apply:

   "Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the Agreement.

   "Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistent with the agency's operational plan.

   "Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

   "Winter Superblitz Period" means November 13, 2020 to January 2, 2021.

   "St. Patrick's Day Mini Superblitz Period" means March 12 to March 20, 2021.

   "Cinco de Mayo May Mini Superblitz Period" means May 1 to May 7, 2021.

   "National Occupant Protection Mobilization Click It or Ticket period" means November 16-29, 2020 and May 24 to June 6, 2021.

   "Fourth of July Mini Superblitz Period" means July 1 to July 8, 2021.

   "National DWI Mobilization Period" means August 20 to September 6, 2021.

3. **Training and Qualifications.** The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee's participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. **Reimbursement.** The Department will pay the Grantee for the actual cost paid to personnel that worked the ODEPs. Claims for payment must specify officers' actual hourly rate of overtime pay based on the Grantee's overtime policy; the Department will not pay any amount in excess of that rate or for any amount that is not above and beyond the officers normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31, 2021. If the final claim is submitted after October 31, 2021, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

   a. pay, including overtime, for officers conducting traffic safety occupant protection focused enforcement in areas consistent with the enforcement plan;
   b. attendance at, and excess per diem for, operation safe kids training and the four-day NHTSA standardized child passenger safety training; and
   c. assistance at child safety seat clinics or car seat fitting stations.

5. **Reporting.** *The Grantee must submit activity reports by the 10th of each month using the activity report form provided unless otherwise directed by the Department.* Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, Section 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, Section 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. **Funding.** The Department expects the funding source to be state road fund. However, the funding source is subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	$14,250.00
Contractual Services	$0.00
Commodities	$0.00
Indirect	$0.00
Other	$0.00
TOTAL	$14,250.00

7. **Goals.** The Department's performance goals for the state are to:

   a. Unrestrained occupant fatalities rose by 7 percent in 2018 from 2017, but preliminary and projected data indicate relatively stable numbers of these fatalities through 2021. Given the State's BKLUP enforcement and awareness campaign and participation in the National CIOT, the State has determined to set the annual projection of 114 as the 2021 target
   b. New Mexico's observed seatbelt use percentage has remained above 90 percent since 2011. The State anticipates being able to maintain its seatbelt use above 90 percent in 2021 and determines to set the annual projection of 91.0% as the 2021 target

8. **Equipment.** The Grantee may only purchase equipment under this Agreement with prior written approval of the Department.

Exhibit C: Scope of Work, Training, Reimbursement and Reporting

SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) and
SUMMER ENFORCEMENT PERIOD Project Number: 01-PT-RF-090

1. **Scope of Work.** The Grantee shall conduct directed enforcement patrols (DEPs) in high crash locations identified in data compiled by local, state or federal government agencies and the Grantee's Operational Plan. The Department encourages the Grantee to accompany the DEPs with public information, media and educational activities. DEPs must deploy officers in high crash locations consistent with the Operational Plan. If for any reason, the DEPs were conducted in areas not consistent with the Operational Plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for DEPs based on the justification. *The Grantee is encouraged to schedule DEPS through the grant period with a focus on participating during the Summer enforcement period which runs June 20, 2020 through September 27, 2021.*

2. **Definitions.** For purposes of this exhibit, the following definitions apply:

   "Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the Agreement.

   "Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistent with the agency's operational plan.

   "Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

3. **Training and Qualifications.** The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee's participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. **Reimbursement.** The Department will pay the Grantee for the actual cost paid to personnel that worked the DEPs. Claims for payment must specify officers' actual hourly rate of overtime pay based on the Grantee's overtime policy; the Department will not pay any amount in excess of that rate or for any amount that was not above and beyond the officer's normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31, 2021. If the final claim is submitted after October 31, 2021, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

a. Pay, including overtime pay, for officers conducting the traffic safety enforcement described in paragraph 1 of this **Exhibit C**; and

b. training for officers not previously trained in STEP.

5. **Reporting.** *The Grantee must submit activity reports by the 10th of each month using the activity report form provided unless otherwise directed by the Department.* Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, Section 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, Section 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. **Funding – STEP.** The Department expects the funding source to be State Road Fund. However, the funding source is subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	$30,332.00
Contractual Services	$0.00
Commodities	$0.00
Indirect	$0.00
Other	$0.00
TOTAL	$30,332.00

7. **Goals.** The Department's performance goals for the state are as follows:

a. Speeding-related fatalities rose by 10.6 percent in 2016 from 2014, and then fell by 9.6 percent in 2018 from 2016. Preliminary data indicate that speeding-related fatalities were 36.8% of all crash fatalities in 2019, and projected data show these fatalities increasing again in 2020 and 2021. Given these anticipated increases, the State has determined to set the annual projection of 155 as the 2021 target

b. Five-year average alcohol-impaired fatality data show a relatively stable trendline from 2014 to 2018, and projected data through 2021 shows the trendline remaining stable. Given this data and the State's continued focus on reducing drunk driving through ENDWI and the National Drive Sober or Get Pulled Over enforcement and media efforts, the State has determined to set the five-year average projection of 110 as the 2021 target

c. New Mexico's observed seatbelt use percentage has remained above 90 percent since 2011. The State anticipates being able to maintain its seatbelt use above 90 percent in 2021 and determines to set the annual projection of 91.0% as the 2021 target

d. Five-year average fatalities rose by 5.6 percent between 2014 and 2018, and preliminary and projected data indicate that fatalities will continue to increase, but by a higher 15.6 percent between 2017 and 2021. The State has determined to set a five-year average target at the projected level of 411.6.

8. **Equipment.** The Grantee may only purchase equipment under this Agreement with prior written approval of the Department.

Appendix A to Part 1300 – Certifications and Assurances for Fiscal Year 2021 Highway Safety Grants (23 U.S.C. Chapter 4; Sec. 1906, Pub. L. 109-59, As Amended By Sec. 4011, Pub. L. 114-94)

[*Each fiscal year, the Governor's Representative for Highway Safety must sign these Certifications and Assurances affirming that the State complies with all requirements, including applicable Federal statutes and regulations, that are in effect during the grant period. Requirements that also apply to subrecipients are noted under the applicable caption.*]

State: New Mexico Fiscal Year: 2021

By submitting an application for Federal grant funds under 23 U.S.C. Chapter 4 or Section 1906, the State Highway Safety Office acknowledges and agrees to the following conditions and requirements. In my capacity as the Governor's Representative for Highway Safety, I hereby provide the following Certifications and Assurances:

GENERAL REQUIREMENTS

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4 – Highway Safety Act of 1966, as amended
- Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94
- 23 CFR part 1300 – Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201 – Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs).

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The State will comply with FFATA guidance, OMB Guidance on FFATA Subward and Executive Compensation Reporting, August 27, 2010, (https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf) by reporting to FSRS.gov for each sub-grant awarded:

- Name of the entity receiving the award;
- Amount of the award;

- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A unique identifier (DUNS);
- The names and total compensation of the five most highly compensated officers of the entity if:
  (i) the entity in the preceding fiscal year received—
  (I) 80 percent or more of its annual gross revenues in Federal awards;
  (II) $25,000,000 or more in annual gross revenues from Federal awards; and
  (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- Other relevant information specified by OMB guidance.

NONDISCRIMINATION
(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies** Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 *et seq.*), **and Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities,

public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;

- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100).

The State highway safety agency—

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;

- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;

- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;

- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;

- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:

  "During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

  a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;

b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;

c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;

d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and

e. To insert this clause, including paragraphs (a) through (e), in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The State will provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b. Establishing a drug-free awareness program to inform employees about:
   1. The dangers of drug abuse in the workplace;
   2. The grantee's policy of maintaining a drug-free workplace;
   3. Any available drug counseling, rehabilitation, and employee assistance programs;
   4. The penalties that may be imposed upon employees for drug violations occurring in the workplace;
   5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –
   1. Abide by the terms of the statement;
   2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

d. Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction;

e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted –
   1. Taking appropriate personnel action against such an employee, up to and including termination;
   2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)
(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING
(applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

RESTRICTION ON STATE LOBBYING
(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION
(applies to subrecipients as well as States)

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in thistransaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.

4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency enteringinto this transaction.

7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to complywith 2 CFR parts 180 and 1200.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (https://www.sam.gov/).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate the transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Tier Covered Transactions

(1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Participant Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (https://www.sam.gov/).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA ACT
(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE
(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at www.trafficsafety.org. The NHTSA website (www.nhtsa.gov) also provides information on statistics, campaigns, and program evaluations and references.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

SECTION 402 REQUIREMENTS

1. To the best of my personal knowledge, the information submitted in the Highway Safety Plan in support of the State's application for a grant under 23 U.S.C. 402 is accurate and complete.

2. The Governor is the responsible official for the administration of the State highway safety program, by appointing a Governor's Representative for Highway Safety who shall be responsible for a State highway safety agency that has adequate powers and is suitably equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program. (23 U.S.C. 402(b)(1)(A))

3. The political subdivisions of this State are authorized, as part of the State highway safety program, to carry out within their jurisdictions local highway safety programs which have been approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary of Transportation. (23 U.S.C. 402(b)(1)(B))

4. At least 40 percent of all Federal funds apportioned to this State under 23 U.S.C. 402 for this fiscal year will be expended by or for the benefit of political subdivisions of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C)) or 95 percent by and for the benefit of Indian tribes (23 U.S.C. 402(h)(2)), unless this requirement is waived in writing. (This provision is not applicable to the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.)

5. The State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks. (23 U.S.C. 402(b)(1)(D))

6. The State will provide for an evidenced-based traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents. (23 U.S.C. 402(b)(1)(E))

7. The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State, as identified by the State highway safety planning process, including:
    - Participation in the National high-visibility law enforcement mobilizations as identified annually in the NHTSA Communications Calendar, including not less than 3 mobilization campaigns in each fiscal year to –
        - Reduce alcohol-impaired or drug-impaired operation of motor vehicles; and
        - Increase use of seat belts by occupants of motor vehicles;
    - Submission of information regarding mobilization participation into the HVE Database;
    - Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;

- An annual Statewide seat belt use survey in accordance with 23 CFR part 1340 for the measurement of State seat belt use rates, except for the Secretary of Interior on behalf of Indian tribes;
- Development of Statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;
- Coordination of Highway Safety Plan, data collection, and information systems with the State strategic highway safety plan, as defined in 23 U.S.C. 148(a).

(23 U.S.C. 402(b)(1)(F))

8. The State will actively encourage all relevant law enforcement agencies in the State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect. (23 U.S.C. 402(j))

9. The State will not expend Section 402 funds to carry out a program to purchase, operate, or maintain an automated traffic enforcement system. (23 U.S.C. 402(c)(4))

I understand that my statements in support of the State's application for Federal grant funds are statements upon which the Federal Government will rely in determining qualification for grant funds, and that knowing misstatements may be subject to civil or criminal penalties under 18 U.S.C. 1001. I sign these Certifications and Assurances based on personal knowledge, and after appropriate inquiry.

Michael Sandoval (Jul 27, 2020 10:43 MDT)

Signature Governor's Representative for Highway Safety Date

Printed name of Governor's Representative for Highway Safety

New Mexico Traffic Safety Division Project Information Sheet

Contract Number:			
Government Unit:	Santa Fe, City of		
Contract term:	(– 09/30/2021)		
Vendor Number:	0000054360	Address ID:	

Grantee Contact Info

Project Director and Title:	Chief Andrew Padilla		
Phone:	505-955-5257	E-mail:	aapadilla@ci.santa-fe.nm.us
Agency Name:	Santa Fe, City of		
Address:	PO Box 909		
City, State ZIP:	Santa Fe, New Mexico 87504		

TSD Contact Info

Program Manager:	John Vargas	Phone:	505-231-6784
TSD Finance:	Avalon Wright	Phone:	505-660-8103

Budget Breakdown

Funding	Project Number	Amount	Fund	Department Code	PO Number
ENDWI	01-AL-64-090	$44,722.00	10010	5000000000	
BKLUP	01-OP-RF-090	$14,250.00	20100	5100000000	
STEP	01-PT-RF-090	$30,332.00	20100	5100000000	
	Total	**$89,304.00**			

PO Entered by TSD Finance:		Date:	
PO Approved by Contracts:		Date:	
Comments:			

Signature:

Email: rocio.dominguez@state.nm.us

CITY OF SANTA FE:

Jarel LaPan Hill
Jarel LaPan Hill (Feb 4, 2021 08:56 MST)

JAREL LAPAN HILL, CITY MANAGER

DATE: Feb 4, 2021

ATTEST:

Kristine Mihelcic (Feb 4, 2021 10:15 MST)

KRISTINE MIHELCIC, CITY CLERK KM XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jan 25, 2021 11:32 MST)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Mary McCoy

MARY MCCOY, FINANCE DIRECTOR

1000065.501400 AL
AL

Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
POLICE / ADMINISTRATION	06/11/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Police Overtime	1000065	501400		89,304	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
NM Dept of Transportation - State Grants	1000001	490150		(89,304)	
				$ -	$ -

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

To record NM Department of Transportation traffic projects; ENDWI $44,722; BKLUP and CIOT $ 14,250; STEP $30,332

Total $89,304

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	0

Laura A Vigil — 6/11/2021
Prepared By *{print name}* — Date

Benjamin Valdez — 6/11/2021
Division Director Signature *{optional}* — Date

Department Director Signature — Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins
Budget Officer — Date

N/A
Finance Director *{≤ $5,000}* — Date

N/A
City Manager *{≤ $60,000}* — Date

City of Santa Fe, New Mexico

memo

DATE: January 22, 2021

TO: Jarel LaPan- Hill, City Manager

VIA: Mary McCoy, Finance Department Director
Fran Dunaway, Purchasing Officer
Andrew Padilla, Chief of Police (1-22-21)

FROM: _____
Paul Joye, Deputy Chief of Police

ITEM AND ISSUE:
Request for a General Fund budget increase and approval of NM Department of Transportation for the funding of projects: End Driving While Impaired (ENDWI) Project # 01-AL-64-090; Buckle Up (BKLUP)/Click it or Ticket (CIOT)Project # 01-OP-RF-090, Selective Traffic Enforcement Program (STEP)/Summer Enforcement Period Project # 01-PT-RF-090 in the Total Project Amount of $89,304. (Deputy Chief Paul Joye, pmoye@santafenm.gov, ext. 5040.)

BACKGROUND AND SUMMARY:
The attached project award to the City of Santa Fe Police Department is from the New Mexico Department of Transportation and does not require matching funds from the City of Santa Fe. The project funds reimburse the City of Santa Fe Police Department for eligible expenses required to conduct projects aimed at reducing traffic-related injuries and deaths. End Driving While Impaired (ENDWI) Project #01-AL-64-090 for $44,722 will allow officers to conduct sobriety checkpoints and DWI directed enforcement patrols in high crash locations identified in data compiled by local, state or federal government agencies and included in the City's Operational Plan. Buckle Up (BKLUP)/Click it or Ticket (CIOT) Project # 01-OP-RF-090 for $14,250 is to conduct occupant protection directed enforcement patrols in high crash locations. Selective Traffic Enforcement Program (STEP)/Summer Enforcement Period Project # 01-PT-RF-090 for $30,332 is to conduct directed enforcement patrols in high crash locations identified in data compiled local, state or federal government agencies and the City's Operational Plan.

The agreement becomes effective upon the date of the signature of both parties and ends September 30, 2021. This request is to increase the General Fund budget – Police Overtime 1000065.501400 in the amount of $89,304.

ACTION REQUESTED:
The Police Department respectfully requests your review and approval for budget increase of NM Department of Transportation Consolidated Project Agreement. Thank you in advance for your assistance.

City of Santa Fe, New Mexico

memo

DATE: January 22, 2021

TO: Fran Dunaway, Chief Procurement Officer

FROM: Paul Joye, Deputy Chief of Police

SUBJECT: Exemption Determination Request

The Police Department respectfully request exempt determination to be approved by the City's CPO, Fran Dunaway. The Letter of Justification for Grant Agreement is between the New Mexico Department of Transportation Traffic Safety Division and City of Santa Fe Police Department to conduct projects aimed at reducing traffic-related injuries and deaths.

City of Santa Fe follows the New Mexico State Procurement code.

State Procurement Exemption: ***13-1-98 A (State Agency)*** *- 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;*

State Agency: New Mexico Department of Transportation Traffic Safety Division
Amount: No Cost for City of Santa Fe – Grant Reimburse
Term: Upon Signature approval of City Manager through September 30, 2021

Approved Exemption:

Fran Dunaway
Fran Dunaway (Jan 27, 2021 09:26 MST)

Fran Dunaway, Chief Procurement Officer

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: New Mexico Department of Transportation Traffic Safety Division

Procurement Title: Letter of Justification for Grant Agreement between the NM Dept. of Transportation Traffic Safety Division and SFPD

Procurement Method: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☐ *Other* ☒ *Grant Agreement*

Exempt ☒ *Request For Proposal* (RFP) ☐ *Invitation To Bid (ITB)* ☐ *Contract under 60K* ☐ *Contract over 60K* ☐

Department Requesting: Santa Fe Police Department Staff Name: Deputy Chief Paul Joye

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	
☒	☐	Approved Procurement Checklist (by Purchasing)
☒	☐	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
☐	☒	State Price Agreement
☐	☒	RFP
☐	☒	Evaluation Committee Report
☐	☒	ITB
☐	☒	Bib Tab
☐	☒	Quotes (3 valid current quotes)
☐	☒	Cooperative Agreement
☐	☒	Sole Source Request and Determination Form
☐	☒	Contractors Exempt Letter
☒	☐	Purchasing Officers approval for exempt procurement
☐	☒	BAR
☐	☒	FIR
☒	☐	Executed Contract, Agreement or Amendment
☐	☒	Current Business Registration and CRS numbers on contract or agreement
☒	☐	Summary of Contracts and Agreements form
☐	☒	Certificate of Insurance
☐	☒	All documentation presented to Committees
☒	☐	Other: Letter of Justification for Grant Agreement between the NMDOT Traffic Safety Division and SFPD

Paul Joye	Deputy Chief	1/22/21
Department Rep Printed Name (attesting that all information included)	Title	Date
Fran Dunaway Fran Dunaway (Jan 27, 2021 09:26 MST)		
Purchasing Officer (attesting that all information is reviewed)	Title	Date

Include all other substantive documents and records of communication that pertain to the procurement and any resulting contract.

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3202504

Contractor: **New Mexico Department of Transportation Traffic Safety Division**

Description: **New Mexico Department of Transportation for the award of Traffic projects: (ENDWI) Project # 01-AL-64-090, Buckle Up(BKLUP)/Click it or Ticket(CIOT) Project # 01-OP-RF-090, and (STEP)/Summer Enforcement Period Project # 01-PT-RF-090.**

Contract ☐ Agreement ◉ Lease / Rent ☐ Amendment ☐

Term Start Date: **upon signed approval** Term End Date: **09/30/2021**

☐ Approved by Council Date: _____

Contract / Lease:

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY** of Contract, Amendments & Lease / Rent - **Please Elaborate** (option: attach spreadsheet if multiple amendments)

The attached project award to the City of Santa Fe Police Department is from the New Mexico Department of Transportation and does not require matching funds from the City of Santa Fe. The project funds reimburse the City of Santa Fe Police Department for eligible expenses required to conduct projects aimed at reducing traffic-related injuries and deaths.

3. Procurement History: _____

Fran Dawsay (Jan 27, 2021 08:26 MST) Jan 27, 2021

Purchasing Officer Review Date

Comment & Exceptions: **Exemption: 13-1-98A Entity to Entity**

4. Funding Source: _____ Org / Object: 1000065-501400

Alexis Lotero (Jan 27, 2021 09:11 MST) Jan 27, 2021

Budget Officer Approval Date

Comment & Exceptions: **Grants- Letter of Justification for Grants Agreement**

Staff Contact who completed this form: **AnnaMarie Bowen** Phone # **x5122**

Email: **acbowen@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

New Mexico DEPARTMENT OF TRANSPORTATION
MOBILITY FOR EVERYONE

MEMORANDUM

Date: October 16, 2020

To: Michael Sandoval, Cabinet Secretary

Through: Jeff Barela, Director, Traffic Safety Division Jeff Barela (Dec 16, 2020 15:21 MST)

From: Kimberly Wildharber, Staff Manager

Subject: Letter of Justification for Grant Agreement between the New Mexico Department of Transportation Traffic Safety Division and the City of Santa Fe.

---

1. TSD Program Manager John Vargas Phone # 505-231-6784 will oversee the project(s).

2. The Consolidated Agreement provides funding to Santa Fe PD to conduct the following project(s) and activities as shown below.
   - ENDWI – $44,722.00 (Federal 164 AL Fund)
     The ENDWI program funds overtime enforcement for DWI checkpoint and DWI directed patrol program. Funds are used to maintain the program, as funding allows, and to expand the program in areas of the State with high rates of DWI.
   - BKLUP - $14,250.00 (State Road Fund)
     The BKLUP program funds overtime for law enforcement agencies to conduct safety belt and child restraint/ booster seat use activities to increase in occupant protection use in New Mexico.
   - STEP – $30,332.00 (State Road Fund)
     Provides funding for sustained enforcement program to target specific traffic problems such as speed, DWI, road rage, distracted and reckless driving, fatigue/ drowsy driving, occupant protection, and crashes involving pedestrians, primarily through the use of Safety Corridors. Participating agencies include local law enforcement.

3. The agreement will be effective from date of last signature to 9/30/2021.

4. A deliverables table is listed in Exhibit A-C.

5. The agreement is Exempt from the procurement as it is with another government agency, (per NMSA 1978 Section 13-1-98, et seq.)

Michelle Lujan Grisham
Governor

Michael R. Sandoval
Cabinet Secretary

Commissioners

Jennifer Sandoval
Commissioner, Vice-Chairman
District 1

Bruce Ellis
Commissioner
District 2

Hilma E. Chynoweth
Commissioner
District 3

Walter G. Adams
Commissioner, Chairman
District 4

Thomas C. Taylor
Commissioner
District 5

Charles Lundstrom
Commissioner, Secretary
District 6

New Mexico DEPARTMENT OF TRANSPORTATION
MOBILITY FOR EVERYONE

October 16, 2020

Chief Andrew Padilla
Santa Fe PD
2515 Camino Entrada
Santa Fe, New Mexico 87550

RE: Project Agreement

Dear Chief Andrew Padilla:

Enclosed is the project agreement for the federal 2021 fiscal year. This letter contains information required to meet Federal Funding Accountability and Transparency Act (FFATA) and 2 CFR Part 200 requirements. Please provide a copy of this letter to the person responsible for meeting those requirements at your City, County, Town or Tribal agency. The following table contains the information necessary to meet these requirements.

Project Number	Funding Source	CFDA #	FAIN	Award Date	Amount
01-AL-64-090	23 U.S.C. § 164	20.608	69A37520300001640NMA	8/14/2019	$44,722.00
01-OP-RF-090	State Road Fund				$14,250.00
01-PT-RF-090	State Road Fund				$30,332.00

2 CFR Subpart F 200.500-521
(a) Audit required. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

(b) Single audit. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) *Program-specific audit election.* When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

Michelle Lujan Grisham
Governor

Michael R. Sandoval
Cabinet Secretary

Commissioners

Jennifer Sandoval
Commissioner, Vice-Chairman
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Commissioner, Secretary
District 6

New Mexico DEPARTMENT OF TRANSPORTATION
MOBILITY FOR EVERYONE

(d) Exemption when Federal awards expended are less than $750,000. A non-Federal entity that expends less than $750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

If expenditures are less than $750,000 during your agency's fiscal year 2020, please submit a statement to the Traffic Safety Division at the address listed on this letterhead. The Statement should read, "We did not meet the $750,000 expenditure threshold and therefore we are not required to have a single audit performed for FY {20}."

Your agency must submit copies of any audits and review reports which they have had prepared to the Department for informational purposes if requested regardless of whether the criteria for audit or review are met.

Operational Plan
Your agency is required to develop an operational plan to include a jurisdiction-specific performance goal, problem statement, problem identification and basic crash data upon which the project is based. Performance goals should be specific, measurable, action-oriented, realistic, and time-bound.

Performance Indicators
The Department has implemented performance indicators on Department funded law enforcement projects. The performance indicators are as follows:
ENDWI Medium Agency (Populations 50,000 - 99,000) – 1 DWI in 32 Hours
BKLUP 1 seat belt or child restraint citation for every 2 hours of enforcement worked.
STEP 2 citations or warnings for every hour of enforcement worked.

At no time does the New Mexico Department of Transportation require an individual officer to issue a specific number of citations during an enforcement period.

We look forward to working with you to prevent injuries and fatalities. Thank you for your cooperation.

Sincerely,

Jeff Barela
Jeff Barela (Dec 10, 2020 15:21 MST)

Jeff Barela, Director
Traffic Safety Division

Enclosure

Office of General Counsel Contract Brief Form

Date: October 16, 2020 **From: John Vargas** **Location: Traffic Safety Division**

Phone: 505-231-6784 **Agency: NMDOT**

Contractor: Santa Fe, City of

Project No.: 01-AL-64-090, 01-OP-RF-090, 01-PT-RF-090

NEW CONTRACT
__ Copy of RFP, if applicable
__ Copy of approved sole source justification
__ Copy of approved small purchase justification
__ Copy of Contract Brief signed by Contract Administration

AMENDMENT TO EXISTING CONTRACT
__ Scope of Work
__ Additional Compensation
__ Time extension
Note: For amendments please attach a copy of the original agreement, any previous amendments, and a copy of the RFP. (If applicable)

X EXEMPT FROM PROCUREMENT PROCESS (university: other educational institutions; other state agency, bureau; local public bodies).

The Office of General Counsel's policy for turnaround time is ten (10) working days. Please indicate below if there are extenuating circumstances, which require immediate review of this agreement.

Attorney Review Comments

The attached agreement is being returned for revisions or corrections. Please call at (505) 469-6411 if you have any questions.
____Please make corrections on pages _
____I have signed the agreement with the understanding that you will make the corrections indicated on the agreement submitted for review or discussed with you.
____Please make corrections on pages and return the marked copy to the receptionist for further review and approval.

Other Comments

CONTRACT NUMBER:_____
GRANTEE DUNS NUMBER: 069420818
VENDOR NUMBER: 0000054360

GRANT AGREEMENT

This Grant Agreement (**Agreement**) is between the New Mexico Department of Transportation (**Department**) and City of Santa Fe (**Grantee**), collectively referred to as "the Parties." This Agreement is effective as of the date of the last party to sign it on the signature page below. The Department and the Grantee agree as follows:

1. **Award.** The Department hereby awards the Grantee funding for the following projects:

   a. End Driving While Impaired (**ENDWI**), Project No. 01-AL-64-090, $44,722.00;
   b. Buckle Up (**BKLUP**)/Click It or Ticket (**CIOT**), Project No. 01-OP-RF-090, $14,250.00;
   c. Selective Traffic Enforcement Program (**STEP**), Project No. 01-PT-RF-090, $30,332.00;
   d. Total Funding awarded per this Agreement $89,304.00.

2. **Scope of Work.** The Grantee shall perform the professional services stated in the following exhibits: **Exhibit A** - ENDWI; **Exhibit B** - BKLUP/CIOT; **Exhibit C** - STEP.

3. **Payment.** To be reimbursed for eligible expenses, the Grantee must submit timely, properly prepared reimbursement requests as provided in the Department's Electronic Grant Management System or the Traffic Safety Division Financial Management Manual 2019, as directed by the Department. The Grantee acknowledges that the Department will not pay for any expenses incurred prior to both Parties signing the Agreement, after termination of the Agreement, or in excess of the amount of the award noted in Section 1. The Grantee must submit its final reimbursement request no later than thirty (30) days after termination of this Agreement, unless otherwise approved by the Department.

4. **Records and Audit.** The Grantee shall strictly account for all receipts and disbursements related to this Agreement. The Grantee shall record costs incurred, services rendered and payment received, and shall maintain these financial records during the term of this Agreement and for three (3) years from the date of submission of the final reimbursement request. On request, the Grantee shall provide the financial records to the Department and the state auditor, and shall allow the Department and the state auditor to inspect or audit these financial records during business hours at the Grantee's principal office during the term of this Agreement and for three (3) years from the date of submission of the final reimbursement request. If the financial records provided by the Grantee are insufficient to support an audit by customary accounting practices, the Grantee shall reimburse the Department for any expense incurred related to the insufficient documentation within thirty (30) days of written notice from the Department. If an audit or inspection reveals that funds were used for expenses not directly related to the project, or otherwise used inappropriately, or that payments were excessive or otherwise erroneous, the Grantee shall reimburse the Department for those funds or payments within thirty days of written notice.

5. **Officials Not to Benefit.** The Parties intend that no member of the New Mexico legislature or the United States Congress, or any public official, public employee or tribal council member, in that person's individual capacity, will benefit from this Agreement.

6. **Termination.** The Department may terminate this Agreement for any reason, by giving the Grantee thirty (30) days written notice. On receipt of a "Notice of Cancellation," the Grantee shall suspend work unless otherwise directed by the Department in writing. The Grantee may only terminate this Agreement based on the Department's uncured, material breach of the Agreement and by giving by giving the Department thirty (30) days' written notice. The Parties acknowledge that termination will not nullify obligations incurred prior to termination.

7. **Appropriations.** The Grantee acknowledges that:

   a. this Agreement is contingent upon sufficient appropriations and authorizations being made by the Congress of the United States or the New Mexico state legislature;
   b. if sufficient appropriations and authorizations are not made, this Agreement will terminate upon written notice by the Department to the Grantee; and
   c. the Department will not expend any funds until they are approved for expenditure, and the Department's determination as to whether approval has been granted will be final.

8. **Compliance with Law.** The Grantee, its employees, agents and contractors, shall comply with the following:

   a. Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the ADA Amendments Act of 2008, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, and 49 C.F.R. Section 21;
   b. all federal and state laws, rules, and regulations, and executive orders of the Governor of the state of New Mexico pertaining to equal employment opportunity, including the Human Rights Act, NMSA 1978, Sections 28-1-1 through 28-1-15 (and in accordance with such, the Grantee states that no person, on the grounds of race, religion, national origin, sex, sexual orientation, gender identity, spousal affiliation, serious medical condition, age, disability, or other protected class will be excluded from employment with or participation in, denied the benefits of, or otherwise subjected to, discrimination in any activity performed under this Agreement; if the Grantee is found to be in violation of any of these requirements, the Grantee shall take prompt and appropriate steps to correct such violation);
   c. state laws applicable to workers compensation benefits for the Grantee's employees, including the Workers' Compensation Act, NMSA 1978, Sections 52-1-1 through 52-1-70, and related regulations;
   d. 2 C.F.R. 200, Subpart F - Audit Requirements, Sections 200.500 - 200.521; and
   e. those sections in **Exhibit D** labeled "applies to subrecipients as well as states."

9. **Notices.** For a notice under this Agreement to be valid, it must be in writing; be delivered by hand, registered or certified mail return receipt requested and postage prepaid, fax or email; and be addressed as follows:

to the Department at:	to the Grantee at:
New Mexico Dept. of Transportation	Santa Fe PD
Attn: Traffic Safety Division	Attn: Chief Andrew Padilla
P.O. Box 1149	2515 Camino Entrada
Santa Fe, NM 87504	Santa Fe, NM 87505

10. **Severability**. The terms of this Agreement are lawful; performance of all duties and obligations shall confirm with and do not contravene any state, local, or federal statute, regulation, rule, or ordinance. The Parties intend that if any provision of this Agreement is held to be unenforceable, the rest of the Agreement will remain in effect as written.

11. **Tort Claims.** Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with the Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*, as amended. This paragraph is intended only to define the liabilities between the Parties and it is not intended to modify in any way, the Parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

12. **Jurisdiction and Venue.** The Grantee acknowledges the jurisdiction of the courts of the state of New Mexico for any adversarial proceeding arising out of this Agreement, and that venue for any such proceeding will be in the First Judicial District Court for the county of Santa Fe, New Mexico.

13. **Project Responsibility.** The Grantee acknowledges that it bears sole responsibility for performing the services referred to in Section 2.

14. **Term.** This Agreement takes effect upon signature of all Parties. If the Grantee does not deliver the signed Agreement to the Department within sixty (60) days of the Department's signature, the Agreement will be voidable by the Department. The Agreement terminates at 12:00 a.m. on September 30, 2021, unless earlier terminated as provided in Section 6 or Section 7.

15. **Applicable Law.** The laws of the state of New Mexico, without giving effect to its choice of law principles, govern all adversarial proceedings arising out of this Agreement.

16. **Amendment.** No amendment of this Agreement will be effective unless it is in writing and signed by the Parties.

17. **No Third-party Beneficiary**. This Agreement does not confer any rights or remedies on anyone other than the Department and the Grantee.

18. **Scope of Agreement and Merger.** This Agreement constitutes the entire understanding between the Parties with respect to the subject matter of the Agreement and supersedes all other Agreements, whether written or oral, between the Parties, except that this Agreement does not supersede the Grantee's rights under any other grant agreement.

19. **Disadvantaged Business Enterprise**. The following provision applies to a USDOT-assisted federally funded Agreement only. The recipient shall not discriminate on the basis of race, color, national origin, sex, or other protected class in the award and performance of any USDOT-assisted

contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

The remainder of this page is intentionally left blank.

Each party is signing this Agreement on the date stated opposite that party's signature. This Agreement is effective as of the date of the last party to sign it on the signature page below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Cabinet Secretary or Designee

SANTA FE, CITY OF

By: Jarel LaPan Hill (Feb 4, 2021 08:56 MST) Date: Feb 4, 2021

Title: City Manager

Approved as to form and legal sufficiency.

By: _____ Date: Dec 18, 2020
Assistant General Counsel
Department of Transportation

Approved as to form and legal sufficiency.

By: Marcos Martinez (Feb 23, 2021 08:38 MST) Date: Feb 23, 2021

Title: Senior Assistant City Attorney

Exhibit A: Scope of Work, Training, Reimbursement and Reporting

END DRIVING WHILE IMPAIRED (ENDWI) Project Number: 01-AL-64-090

1. **Scope of Work.** The Grantee shall conduct sobriety checkpoints (SCs) and DWI directed enforcement patrols (DDEPs) as negotiated between the Department and the Grantee, in high crash locations identified in data compiled by local, state or federal government agencies and included the Grantee's Operational Plan. The Department encourages the Grantee to accompany SCs and DDEPs with public information, media and educational activities. SCs must be scheduled to be staffed by at least 9 officers and must last at least 5 hours. If for any reason, the SC is not staffed with the minimum number of officers or was not conducted for the minimum number of hours, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for SCs based on the justification. DDEPs must deploy officers in high crash locations consistent with the enforcement plan. If for any reason, the DDEPs were conducted in areas not consistent with the enforcement plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for DDEPs based on the justification. The Grantee is encourage to schedule SCs and DDEPs throughout the grant period with a focus on participating during the Superblitz Period, 3 Mini Superblitz Periods, and National DWI Mobilizations as identified below.

2. **Definitions.** For purposes of this exhibit, the following definitions apply:

   "Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the Agreement.

   "Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistent with the agency's operational plan.

   "Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

   "Winter Superblitz Period" means November 13, 2020 to January 2, 2021.

   "St. Patrick's Day Mini Superblitz Period" means March 12 to March 20, 2021.

   "Cinco de Mayo May Mini Superblitz Period" means May 1 to May 7, 2021.

   "Fourth of July Mini Superblitz Period" means July 1 to July 8, 2021.

   "National DWI Mobilization Period" means August 20 to September 6, 2021.

3. **Training and Qualifications.** The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee's participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. **Reimbursement.** The Department will pay the Grantee for the actual cost paid to personnel that worked the SCs and DDEPs. Claims for payment must specify officers' actual hourly rate of overtime pay based on the Grantee's overtime policy; the Department will not pay any amount in excess of that rate or for any amount that is not above and beyond the officers normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31, 2021. If the final claim is submitted after October 31, 2021, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

   a. pay, including overtime, for officers conducting traffic safety DWI enforcement in areas consistent with the enforcement plan;
   b. pay, including overtime, for officers attendance at administrative license revocation hearings and court hearings directly related to DWI arrests made while participating in the ENDWI program;
   c. overtime costs for officers or civilian employees to dispatch or process paperwork directly related to the SCs and/or DDEPs conducted during the claim month. The Grantee can only claim up to 10 percent of the total monthly claim amount; and
   d. in state travel and related expenses for officers to attend DWI related training approved by the Department in advance, and shall be reimbursed in accordance with the Regulation Governing the New Mexico Per Diem and Mileage Act, 2.42.2 NMAC.

5. **Reporting.** *The Grantee must submit activity reports by the 10th of each month using the activity report form provided unless otherwise directed by the Department.* Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, Section 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, Section 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. **Funding.** The Department expects the funding source to be 23 U.S.C. Section 164 and the Catalog of Federal Domestic Assistance (CFDA) number to be 20.608. However, both funding source and CFDA number are subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	$44,722.00
Contractual Services	$0.00
Commodities	$0.00
Indirect	$0.00
Other	$0.00
TOTAL	$44,722.00

7. **Goals.** The Department's performance goals for the state are as follows: Five-year average alcohol-impaired fatality data show a relatively stable trendline from 2014 to 2018, and projected data through 2021 shows the trendline remaining stable. Given this data and the State's continued focus on reducing drunk driving through ENDWI and the National Drive Sober or Get Pulled Over enforcement and media efforts, the State has determined to set the five-year average projection of 110 as the 2021 target

8. **Equipment.** The Grantee may only purchase equipment under this Agreement with prior written approval of the Department.

Exhibit B: Scope of Work, Training, Reimbursement and Reporting

BUCKLE UP (BKLUP) and CLICK IT OR TICKET (CIOT) Project Number: 01-OP-RF-090

1. **Scope of Work.** The Grantee shall conduct occupant protection directed enforcement patrols (ODEPs) in high crash locations identified in data compiled by local, state or federal government agencies and the Grantee's Operational Plan. The Department encourages the Grantee to accompany the ODEPs with public information, media and educational activities. ODEPs must deploy officers in high crash locations consistent with the enforcement plan for occupant protection issues. If for any reason, the ODEPs were conducted in areas not consistent with the enforcement plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for ODEPs based on the justification. The Grantee is encouraged to schedule ODEPs throughout the grant period with a focus on participating during the Superblitz Period, 3 Mini Superblitz Periods, National DWI Mobilizations and the National Click It or Ticket Mobilizations identified below.

2. **Definitions.** For purposes of this exhibit, the following definitions apply:

   "Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the Agreement.

   "Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistent with the agency's operational plan.

   "Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

   "Winter Superblitz Period" means November 13, 2020 to January 2, 2021.

   "St. Patrick's Day Mini Superblitz Period" means March 12 to March 20, 2021.

   "Cinco de Mayo May Mini Superblitz Period" means May 1 to May 7, 2021.

   "National Occupant Protection Mobilization Click It or Ticket period" means November 16-29, 2020 and May 24 to June 6, 2021.

   "Fourth of July Mini Superblitz Period" means July 1 to July 8, 2021.

   "National DWI Mobilization Period" means August 20 to September 6, 2021.

3. **Training and Qualifications.** The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee's participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. **Reimbursement.** The Department will pay the Grantee for the actual cost paid to personnel that worked the ODEPs. Claims for payment must specify officers' actual hourly rate of overtime pay based on the Grantee's overtime policy; the Department will not pay any amount in excess of that rate or for any amount that is not above and beyond the officers normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31, 2021. If the final claim is submitted after October 31, 2021, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

   a. pay, including overtime, for officers conducting traffic safety occupant protection focused enforcement in areas consistent with the enforcement plan;
   b. attendance at, and excess per diem for, operation safe kids training and the four-day NHTSA standardized child passenger safety training; and
   c. assistance at child safety seat clinics or car seat fitting stations.

5. **Reporting.** *The Grantee must submit activity reports by the 10th of each month using the activity report form provided unless otherwise directed by the Department.* Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, Section 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, Section 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. **Funding.** The Department expects the funding source to be state road fund. However, the funding source is subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	$14,250.00
Contractual Services	$0.00
Commodities	$0.00
Indirect	$0.00
Other	$0.00
TOTAL	$14,250.00

7. **Goals.** The Department's performance goals for the state are to:

   a. Unrestrained occupant fatalities rose by 7 percent in 2018 from 2017, but preliminary and projected data indicate relatively stable numbers of these fatalities through 2021. Given the State's BKLUP enforcement and awareness campaign and participation in the National CIOT, the State has determined to set the annual projection of 114 as the 2021 target
   b. New Mexico's observed seatbelt use percentage has remained above 90 percent since 2011. The State anticipates being able to maintain its seatbelt use above 90 percent in 2021 and determines to set the annual projection of 91.0% as the 2021 target

8. **Equipment.** The Grantee may only purchase equipment under this Agreement with prior written approval of the Department.

Exhibit C: Scope of Work, Training, Reimbursement and Reporting

SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) and
SUMMER ENFORCEMENT PERIOD Project Number: 01-PT-RF-090

1. **Scope of Work.** The Grantee shall conduct directed enforcement patrols (DEPs) in high crash locations identified in data compiled by local, state or federal government agencies and the Grantee's Operational Plan. The Department encourages the Grantee to accompany the DEPs with public information, media and educational activities. DEPs must deploy officers in high crash locations consistent with the Operational Plan. If for any reason, the DEPs were conducted in areas not consistent with the Operational Plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for DEPs based on the justification. *The Grantee is encouraged to schedule DEPS through the grant period with a focus on participating during the Summer enforcement period which runs June 20, 2020 through September 27, 2021.*

2. **Definitions.** For purposes of this exhibit, the following definitions apply:

   "Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the Agreement.

   "Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistent with the agency's operational plan.

   "Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

3. **Training and Qualifications.** The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee's participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. **Reimbursement.** The Department will pay the Grantee for the actual cost paid to personnel that worked the DEPs. Claims for payment must specify officers' actual hourly rate of overtime pay based on the Grantee's overtime policy; the Department will not pay any amount in excess of that rate or for any amount that was not above and beyond the officer's normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31, 2021. If the final claim is submitted after October 31, 2021, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

a. Pay, including overtime pay, for officers conducting the traffic safety enforcement described in paragraph 1 of this **Exhibit C**; and

b. training for officers not previously trained in STEP.

5. **Reporting.** *The Grantee must submit activity reports by the 10th of each month using the activity report form provided unless otherwise directed by the Department.* Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, Section 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, Section 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. **Funding – STEP.** The Department expects the funding source to be State Road Fund. However, the funding source is subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	$30,332.00
Contractual Services	$0.00
Commodities	$0.00
Indirect	$0.00
Other	$0.00
TOTAL	$30,332.00

7. **Goals.** The Department's performance goals for the state are as follows:

a. Speeding-related fatalities rose by 10.6 percent in 2016 from 2014, and then fell by 9.6 percent in 2018 from 2016. Preliminary data indicate that speeding-related fatalities were 36.8% of all crash fatalities in 2019, and projected data show these fatalities increasing again in 2020 and 2021. Given these anticipated increases, the State has determined to set the annual projection of 155 as the 2021 target

b. Five-year average alcohol-impaired fatality data show a relatively stable trendline from 2014 to 2018, and projected data through 2021 shows the trendline remaining stable. Given this data and the State's continued focus on reducing drunk driving through ENDWI and the National Drive Sober or Get Pulled Over enforcement and media efforts, the State has determined to set the five-year average projection of 110 as the 2021 target

c. New Mexico's observed seatbelt use percentage has remained above 90 percent since 2011. The State anticipates being able to maintain its seatbelt use above 90 percent in 2021 and determines to set the annual projection of 91.0% as the 2021 target

d. Five-year average fatalities rose by 5.6 percent between 2014 and 2018, and preliminary and projected data indicate that fatalities will continue to increase, but by a higher 15.6 percent between 2017 and 2021. The State has determined to set a five-year average target at the projected level of 411.6.

8. **Equipment.** The Grantee may only purchase equipment under this Agreement with prior written approval of the Department.

Appendix A to Part 1300 – Certifications and Assurances for Fiscal Year 2021 Highway Safety Grants (23 U.S.C. Chapter 4; Sec. 1906, Pub. L. 109-59, As Amended By Sec. 4011, Pub. L. 114-94)

[Each fiscal year, the Governor's Representative for Highway Safety must sign these Certifications and Assurances affirming that the State complies with all requirements, including applicable Federal statutes and regulations, that are in effect during the grant period. Requirements that also apply to subrecipients are noted under the applicable caption.]

State: New Mexico Fiscal Year: 2021

By submitting an application for Federal grant funds under 23 U.S.C. Chapter 4 or Section 1906, the State Highway Safety Office acknowledges and agrees to the following conditions and requirements. In my capacity as the Governor's Representative for Highway Safety, I hereby provide the following Certifications and Assurances:

GENERAL REQUIREMENTS

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4 – Highway Safety Act of 1966, as amended
- Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94
- 23 CFR part 1300 – Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201 – Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs).

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The State will comply with FFATA guidance, OMB Guidance on FFATA Subward and Executive Compensation Reporting, August 27, 2010, (https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf) by reporting to FSRS.gov for each sub-grant awarded:

- Name of the entity receiving the award;
- Amount of the award;

- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A unique identifier (DUNS);
- The names and total compensation of the five most highly compensated officers of the entity if:
  (i) the entity in the preceding fiscal year received—
    (I) 80 percent or more of its annual gross revenues in Federal awards;
    (II) $25,000,000 or more in annual gross revenues from Federal awards; and
  (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- Other relevant information specified by OMB guidance.

NONDISCRIMINATION
(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies** Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 *et seq.*), **and Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities,

public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;

- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100).

The State highway safety agency—

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;

- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;

- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;

- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;

- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:

  "During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

  a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;

b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;

c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;

d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and

e. To insert this clause, including paragraphs (a) through (e), in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The State will provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b. Establishing a drug-free awareness program to inform employees about:
   1. The dangers of drug abuse in the workplace;
   2. The grantee's policy of maintaining a drug-free workplace;
   3. Any available drug counseling, rehabilitation, and employee assistance programs;
   4. The penalties that may be imposed upon employees for drug violations occurring in the workplace;
   5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –
   1. Abide by the terms of the statement;
   2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

d. Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction;

e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted –
   1. Taking appropriate personnel action against such an employee, up to and including termination;
   2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)
(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING
(applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

RESTRICTION ON STATE LOBBYING
(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION
(applies to subrecipients as well as States)

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in thistransaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.

4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency enteringinto this transaction.

7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to complywith 2 CFR parts 180 and 1200.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (https://www.sam.gov/).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate the transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Tier Covered Transactions

(1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Participant Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (https://www.sam.gov/).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA ACT
(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE
(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at www.trafficsafety.org. The NHTSA website (www.nhtsa.gov) also provides information on statistics, campaigns, and program evaluations and references.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

SECTION 402 REQUIREMENTS

1. To the best of my personal knowledge, the information submitted in the Highway Safety Plan in support of the State's application for a grant under 23 U.S.C. 402 is accurate and complete.

2. The Governor is the responsible official for the administration of the State highway safety program, by appointing a Governor's Representative for Highway Safety who shall be responsible for a State highway safety agency that has adequate powers and is suitably equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program. (23 U.S.C. 402(b)(1)(A))

3. The political subdivisions of this State are authorized, as part of the State highway safety program, to carry out within their jurisdictions local highway safety programs which have been approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary of Transportation. (23 U.S.C. 402(b)(1)(B))

4. At least 40 percent of all Federal funds apportioned to this State under 23 U.S.C. 402 for this fiscal year will be expended by or for the benefit of political subdivisions of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C)) or 95 percent by and for the benefit of Indian tribes (23 U.S.C. 402(h)(2)), unless this requirement is waived in writing. (This provision is not applicable to the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.)

5. The State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks. (23 U.S.C. 402(b)(1)(D))

6. The State will provide for an evidenced-based traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents. (23 U.S.C. 402(b)(1)(E))

7. The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State, as identified by the State highway safety planning process, including:
    - Participation in the National high-visibility law enforcement mobilizations as identified annually in the NHTSA Communications Calendar, including not less than 3 mobilization campaigns in each fiscal year to –
        - Reduce alcohol-impaired or drug-impaired operation of motor vehicles; and
        - Increase use of seat belts by occupants of motor vehicles;
    - Submission of information regarding mobilization participation into the HVE Database;
    - Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;

- An annual Statewide seat belt use survey in accordance with 23 CFR part 1340 for the measurement of State seat belt use rates, except for the Secretary of Interior on behalf of Indian tribes;
- Development of Statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;
- Coordination of Highway Safety Plan, data collection, and information systems with the State strategic highway safety plan, as defined in 23 U.S.C. 148(a).

(23 U.S.C. 402(b)(1)(F))

8. The State will actively encourage all relevant law enforcement agencies in the State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect. (23 U.S.C. 402(j))

9. The State will not expend Section 402 funds to carry out a program to purchase, operate, or maintain an automated traffic enforcement system. (23 U.S.C. 402(c)(4))

I understand that my statements in support of the State's application for Federal grant funds are statements upon which the Federal Government will rely in determining qualification for grant funds, and that knowing misstatements may be subject to civil or criminal penalties under 18 U.S.C. 1001. I sign these Certifications and Assurances based on personal knowledge, and after appropriate inquiry.

MRS

Michael Sandoval (Jul 27, 2020 10:43 MDT)

Signature Governor's Representative for Highway Safety Date

Printed name of Governor's Representative for Highway Safety

New Mexico Traffic Safety Division Project Information Sheet

Contract Number:			
Government Unit:	Santa Fe, City of		
Contract term:	(– 09/30/2021)		
Vendor Number:	0000054360	Address ID:	

Grantee Contact Info

Project Director and Title:	Chief Andrew Padilla		
Phone:	505-955-5257	E-mail:	aapadilla@ci.santa-fe.nm.us
Agency Name:	Santa Fe, City of		
Address:	PO Box 909		
City, State ZIP:	Santa Fe, New Mexico 87504		

TSD Contact Info

Program Manager:	John Vargas	Phone:	505-231-6784
TSD Finance:	Avalon Wright	Phone:	505-660-8103

Budget Breakdown

Funding	Project Number	Amount	Fund	Department Code	PO Number
ENDWI	01-AL-64-090	$44,722.00	10010	5000000000	
BKLUP	01-OP-RF-090	$14,250.00	20100	5100000000	
STEP	01-PT-RF-090	$30,332.00	20100	5100000000	
	Total	**$89,304.00**			

PO Entered by TSD Finance:		Date:	
PO Approved by Contracts:		Date:	
Comments:			

Signature:

Email: rocio.dominguez@state.nm.us

CITY OF SANTA FE:

Jarel LaPan Hill
Jarel LaPan Hill (Feb 4, 2021 08:56 MST)

JAREL LAPAN HILL, CITY MANAGER

DATE: Feb 4, 2021

ATTEST:

Kristine Mihelcic (Feb 4, 2021 10:15 MST)

KRISTINE MIHELCIC, CITY CLERK KM XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jan 25, 2021 11:32 MST)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Mary McCoy

MARY MCCOY, FINANCE DIRECTOR

1000065.501400 AL
AL

City of Santa Fe
Governing Body
Findings of Fact and Conclusions of Law

Appeal No. 2021-3450-APPL
Appellant's Name – Julia Burt
Agent's Name – Sandra Donner
Address – 1299 Upper Canyon Road

THIS MATTER came before the City of Santa Fe (City) Governing Body (Governing Body) for a public hearing on June 30, 2021 (Hearing) to consider the appeal (Appeal) of Julia Burt (Appellant) from the written decision of the City's Historic Districts Review Board (Board) in Case No. 2021-3185-HDRB. In that decision, the Board imposed conditions of approval on Appellant's request to install two new gates constructed of oxidized steel (Project) at 1299 Upper Canyon Road (Property). Appellant asked the Governing Body to reverse the Board's decision to impose conditions of approval on the gate design, arguing that the Board's decision was contrary to law and not supported by substantial evidence.

I. RECORD ON APPEAL

The record on appeal (Record) includes the following documents:

1. Memorandum dated June 21, 2021, for the June 30, 2021 Meeting of the Governing Body to the Members of the Governing Body from Sally A. Paez, Assistant City Attorney, regarding the Appellant's appeal from the Board's decision in Case No. 2021-3185-HDRB (Memorandum);
2. Exhibit A, Verified Appeal Petition (Petition) filed April 6, 2021;
3. Exhibit B, Board Findings of Fact and Conclusions of Law for Case #2021-3185-HDRB, issued March 23, 2021;
4. Exhibit C, relevant excerpts from the minutes of the March 23, 2021;
5. Exhibit D, Board Action Letter from Historic Preservation Division (HPD) Staff;
6. Exhibit E, relevant excerpts from the minutes of the March 9, 2021 Board meeting;
7. Exhibit F, HPD Staff Report and Exhibits for Case #2021-3185-HDRB;
8. Exhibit G, Application filed with the City Land Use Department (LUD) on February 23, 2021;
9. Exhibit H, Wall and Fence Guidelines;
10. Exhibit I, Decision Tree; and
11. Appellant's Supplemental Materials submitted June 20, 2021 for the June 30, 2021 Hearing (totaling 19 pages).

II. FINDINGS OF FACT

After conducting a public hearing, the Governing Body hereby FINDS, as follows:

A. Factual Background

1. The Property at 1299 Upper Canyon Road includes a single-family residential structure that was constructed in a Spanish Pueblo Revival style in 1973.
2. The Property is located within the City's Downtown and Eastside Historic District.
3. The Property has been designated as a noncontributing structure.
4. Appellant submitted the Application for alterations at the property, including the following items, which are the only items at issue in this appeal: (1) a new oxidized steel pedestrian gate to a height of five feet (5') proposed to be located at a new parking area on the western edge along Upper Canyon Road; and (2) a new oxidized steel vehicular gate, proposed to be located along the eastern shared driveway approximately forty-five feet (45') back from the property line along Upper Canyon Road.

B. Procedural History

5. HPD staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable Santa Fe City Code (SFCC) requirements and provided the Board with a written report of its findings (Staff Report), which evaluated the factors relevant to the application.
6. HPD staff recommended that the Board approve the Project, finding that the Project complied with all applicable design standards for historic districts generally and the Downtown and Eastside Historic District specifically, *see* SFCC Section 14-5.2(D) (general design standards), (E) (district design standards).
7. At a public hearing held March 9, 2021, the Board heard presentations by HPD staff and sworn testimony from Appellant's agent, Sandra Donner, and interested members of the public.
8. Following questions and discussion from the Board, the Board voted unanimously to approve the Project, subject to the following conditions ("Gate Conditions"): (1) the pedestrian gate shall be of wood and not of oxidized steel as proposed; and (2) the vehicular gate shall incorporate coyote fence latillas and shall not be a solid oxidized steel gate as proposed.
9. On March 23, 2021, the Board adopted written findings of fact and conclusions of law reflecting its decision to impose the Gate Conditions.
10. As reflected by the Board's written decision, the Board's decision to impose the Gate Conditions was based on the following findings:
    (a) SFCC Section 14-5.2(E) states that "Recent Santa Fe style intends to achieve harmony with historic buildings by retention of a similarity of materials, color, proportion, and general detail."
    (b) SFCC Section 14-5.2(A)(1)(c) states that a purpose of the ordinance is to achieve "general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design."
    (c) The City's Wall and Fence Guidelines provide that "Gates should be designed to complement the wall or fence treatment containing them with respect to scale, height, material, texture and color. Fenestrated gates should be encouraged as opposed to solid gates."

(d) The Applicant proposed two solid oxidized steel gates, including a pedestrian gate and a vehicular gate.
(e) The Board finds that the proposed solid oxidized steel gates lack fenestration and fail to achieve harmony with historic buildings and Recent Santa Fe style construction through the retention of a similarity of materials, color, and general detail.

C. Appeal to Governing Body

11. Under SFCC Section 14-3.17(A)(1)(b), final actions of a Land Use Board include a written decision made after a public hearing.
12. On April 6, 2021, Appellant timely filed a verified appeal petition, asking the Governing Body to reverse the Board's imposition of the Gate Conditions on the Project.
13. Appellant provided notice of the Governing Body Hearing in accordance with the notice provisions of SFCC Section 14-3.1(H)(4).
14. Under SFCC Section 14-3.17(H)(4), Appellant has the burden of proof on appeal.
15. Under SFCC Section 14-2.2(F), the Governing Body conducts a de novo hearing on an appeal of a final action of the Board.
16. At the Hearing, the Governing Body received presentations from City staff and sworn testimony from Appellant, Appellant's representative, and one interested member of the public.
17. SFCC Section 14-3.17(A)(2) sets forth the valid grounds for an appeal of a Board decision and provides that an appeal may be filed for one or more of the following reasons only: (1) the Board's final action does not comply with SFCC Chapter 14 or the Zoning Enabling Act, NMSA 1978, Sections 3-21-1 to -14; (2) the Board misapplied SFCC Chapter 14; or (3) the Board's decision is not supported by substantial evidence.
18. In the Petition, Appellants argue that (1) there was no legal basis for the Board to impose the Gate Conditions set forth in the conditions of approval; and (2) steel gates have been approved in close proximity to the Property and comply with the character of the neighborhood and streetscape.
19. The Project is subject to the requirements and general design standards set forth in SFCC Section 14-5.2(D), General Design Standards.
20. The property is located in the Downtown and Eastside Historic District and is subject to the district design standards set forth in SFCC Section 14-5.2(E).
21. As set forth in SFCC Section 14-2.6(D)(1), the Board "consists of seven members who have demonstrated interest and knowledge of the historic character of the city."
22. Under SFCC Section 14-2.6(C)(1), the Board has the power and duty to "review and approve or deny all applications for . . . exterior alteration . . . in the historic districts in accordance with the standards and procedures set forth [in SFCC Section] 14-5.2 (Historic Districts)."
23. Under SFCC Section 14-5.2(C)(3)(b), the Board "may approve an application for alteration or for new construction on the condition that changes relating to exterior appearance recommended by it be made in the proposed work."
24. Under SFCC Section 14-5.2(C)(4), "[a]ll development located within the historic districts and subject to this Section 14-5.2 shall comply with all applicable general development

standards set forth in Subsection 14-5.2(D), as well as any applicable specific development standards set forth in Subsections 14-5.2(E) through (I)."

25. As set forth in SFCC Section 14-5.2(A)(1)(c), a purpose of the City's Historic Districts Ordinance is to preserve "[a] general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design."
26. The Downtown and Eastside Historic District is the City's core historic area, and the design standards that apply within the Downtown and Eastside Historic District are more stringent than the design standards that apply within the other historic districts in the City.
27. SFCC Section 14-5.2(E) sets forth the district design standards for the Downtown and Eastside Historic District and provides that the architecture in this area must be either "Old Santa Fe Style" or "Recent Santa Fe Style."
28. As described in SFCC Section 14-5.2(E), "Old Santa Fe Style" is a style of architecture that "has evolved within the city from the year 1600 to the present characterized by construction with adobe."
29. SFCC Section 14-5.2(E)(2) provides that "Recent Santa Fe style intends to achieve harmony with historic buildings by retention of a similarity of materials, color, proportion, and general detail. The dominating effect is to be that of adobe construction."
30. Old Santa Fe Style and Recent Santa Fe Style are types of vernacular architecture that rely heavily on local and traditional materials and resources, such as adobe bricks and wooden elements.
31. The City's Wall and Fence Guidelines provide that "Gates should be designed to complement the wall or fence treatment containing them with respect to scale, height, material, texture and color. Fenestrated gates should be encouraged as opposed to solid gates."
32. The "Wall and Fence Guidelines" is a policy document that the Board adopted in 1999.
33. For twenty (20) years, HPD staff and the Board have used the Wall and Fence Guidelines for guidance regarding the application of the Historic Districts Ordinance to walls and fences.
34. Appellant's proposed oxidized steel gates are not fenestrated.
35. The style, form, color, texture, and material of Appellant's proposed oxidized steel gates are not harmonious with the historic buildings of the Downtown and Eastside Historic District and the adobe-style construction that dominates the area.
36. The style, form, color, texture, and material of Appellant's proposed oxidized steel gates are not harmonious with the surrounding area on Upper Canyon Road, which has a rural nature and many wooden elements in the streetscape.
37. Under SFCC Section 14-5.2(C)(5), an applicant may request an exception to deviate from the Downtown and Eastside Historic District design standards set forth in SFCC Section 14-5.2(E).
38. Appellant did not request an exception in this case.
39. At the Hearing, Appellant presented photographs of nine (9) metal gates that currently exist within the City.
40. Some of the gates shown in Appellant's photographs are located within the Historic Review District, and not within the Downtown and Eastside Historic District.

41. At the Hearing, Appellant and City staff stated that they had trouble locating City records confirming whether some of the gates in Appellant's photographs had received approval from the City.
42. Some of the gates in Appellant's photographs have fenestration (i.e. openings), and are not solid metal gates.
43. One of the gates in Appellant's photographs has the appearance of wood, even though it is constructed of metal.
44. One of the gates in Appellant's photographs was approved administratively by staff after the owner revised the gate design to meet a condition of approval imposed by the Board, specifically, that the owner must submit a revised design that prevents the gate from being a single sheet of metal and offers relief to the elevation.
45. Appellant provided only one photograph of a metal gate on Upper Canyon Road, which is located at 1634 Upper Canyon Road.
46. The metal gate at 1634 Upper Canyon Road is at the end of a long private driveway, is set back a considerable distance from Upper Canyon Road, and is surrounded by wooden elements, specifically, fencing made of coyote latillas.
47. The gates in Appellant's photographs are factually distinguishable from the proposed oxidized steel gates in this case, and it is uncertain whether all of the gates received approval from the City and whether any of the gates were approved with an exception to the district design standards set forth in SFCC Section 14-5.2(E).

III. CONCLUSIONS OF LAW

Under the circumstances and based upon the record and the evidence and testimony submitted at the hearing, the Governing Body CONCLUDES as follows:

1. The Governing Body has the power and authority to hear and decide the matter that is the subject of the Appeal.
2. The Board's written decision issued March 23, 2021 was a final action subject to appeal.
3. The oxidized steel gates, as proposed by Appellant in the Application, do not conform to the Downtown and Eastside Historic District design standards, as set forth in SFCC Section 14-5.2(E).
4. The Board properly denied Appellant's request to install oxidized steel gates at the Property because the style, form, color, texture, and material of the proposed gates are not Old Santa Fe Style or Recent Santa Fe Style, as required by SFCC Section 14-5.2(E).
5. The Wall and Fence Guidelines are persuasive authority regarding the application of the design standards in SFCC Section 14-5.2 to walls and fences.
6. Appellant's proposed oxidized steel gates are not fenestrated, as encouraged by the Wall and Fence Guidelines.
7. Appellant has failed to meet the burden of demonstrating that the Board's decision should be reversed.
8. The City's ordinances allow Appellant to file a new application with the City and to propose an alternative gate design or request an exception from the design standards set forth in SFCC Section 14-5.2(E).

IV. VOTE AT THE HEARING

1. The Governing Body voted to deny the appeal and to affirm the Board's final action, with a vote of five (5) in the affirmative and two (2) in the negative.
2. The following members of the Governing Body voted in favor of the motion to deny the appeal and affirm the Board's final action: Councilor Signe Lindell, Councilor Renee Villarreal, Councilor Carol Romero-Wirth, Councilor Roman Abeyta, and Councilor Christopher Rivera.
3. The following members of the Governing Body voted against the motion to deny the appeal and affirm the Board's final action: Councilor Michael Garcia and Councilor JoAnne Vigil Coppler.
4. The following member of the Governing Body recused himself at the Hearing and did not participate in the decision: Mayor Alan Webber.
5. The following member of the Governing Body was not present at the Hearing and did not participate in the decision: Councilor Jamie Cassutt.

WHEREFORE, IT IS ORDERED ON THE 14TH OF JULY, 2021 BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Considering the foregoing findings and conclusions, the Governing Body denies the appeal and affirms the final action of the Board.

_____ _____
Councilor Signe Lindell — Date
Mayor Pro Tem

FILED WITH THE CITY CLERK:

_____ _____
Kristine Bustos-Mihelcic — Date
City Clerk

APPROVED AS TO FORM:

_____ Jul 7, 2021
Erin K. McSherry — Date
City Attorney

City of Santa Fe New Mexico
Memorandum

Date: July 7, 2021

To: Members of the Governing Body

Via: Jarel LaPan Hill, City Manager

From: Erin K. McSherry, City Attorney EM
Sally A. Paez, Assistant City Attorney SAP

RE: Procedural Vote on Whether the Governing Body's Consideration of the Resolution Related to the Vacation of a Portion of Existing Galisteo Street Right-of-Way Should Occur Tonight as a Discussion Item or Should Be Scheduled as a Public Hearing at an Upcoming Meeting of the Governing Body, in Addition to the Public Hearings that Have Already Been Held by the Governing Body and the Planning Commission, and the Additional Public Hearing that Will Be Held by the Planning Commission after Governing Body Approval of the Resolution

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ITEM AND ISSUE:
At a meeting held June 28, 2021, the Public Works and Utilities Committee considered the following resolution: "A Resolution Approving the Vacation of Existing Portions of the Galisteo Road Rights-of-Way at Galisteo Road's Intersection with Zia Road, Contingent on the Planning Commission's Approval of the Vacation of Existing Rights-of-Way and the Dedication of New Galisteo Road Right-of-Way South of Galisteo Road's Intersection with Zia Road in a New Alignment, and New Galisteo Road Right-of-Way North of Galisteo Road's Intersection with Zia Road."

Four members of the Public Works and Utilities Committee were present for consideration of the matter, and they voted unanimously to approve the resolution with the requirements that this item be heard at a public hearing at an upcoming Governing Meeting and that notice of the public hearing must be provided through the posting of yellow signs.

Under the Governing Body Procedural Rules, four members of a council committee do not have authority to schedule this matter for an additional public hearing. The purpose of this agenda item is to determine whether a majority of members of the Governing Body wish to have an additional public hearing on the pending resolution, beyond the public hearings that are legally required.

BACKGROUND:
In April 2021, the Governing Body conducted a public hearing over the course of two nights to consider five applications related to the Zia Station development project. The Governing Body heard sworn public comment from about forty-four (44) members of the public and received written comments from about thirty-nine (39) members of the public. The Planning Commission had

previously considered the applications at a public hearing in February, which included sworn testimony from about forty-six (46) members of the public and written comments from about forty-two (42) members of the public.

The Governing Body approved all five applications, including a preliminary development plan for the project. The preliminary development plan, as approved by the Governing Body, includes the requirement for the Applicant to realign a portion of Galisteo Street, near its intersection with Zia Road. Although the realignment was incorporated into the preliminary development plan that the Governing Body approved, the conditions of approval for the preliminary development plan require the Applicant to file an application to formally obtain Governing Body approval to vacate a portion of the Galisteo Street right-of-way. This condition of approval was imposed to ensure compliance with the formal legal requirements for the vacation of existing right-of-way.

Specifically, under state law and City ordinance, the vacation of existing City right-of-way requires consideration by the Public Works and Utilities Committee at a public hearing, approval by the Governing Body, and final approval by the Planning Commission. As noted above, the Public Works and Utilities Committee agenda for June 28, 2021 included this item as a public hearing, and notice was provided through the timely posting of the meeting agenda, which is the notice that is legally required. *See* SFCC § 23-1.2.

If the resolution is approved by the Governing Body, the realignment of the roadway will also require final approval by the Planning Commission at a public hearing. The Planning Commission will consider the realignment concurrently with an application for a final development plan, which must comply with the provisions of the preliminary development plan that has already been approved by the Governing Body. The public hearing before the Planning Commission will require several types of public notice fifteen days before the hearing, including the publication of the meeting agenda in the newspaper, the posting of yellow signs, and the mailing and emailing of notice to all persons and neighborhood associations within three-hundred (300) feet of the subject property. SFCC 14-3.1(H)(1).

AUTHORITY TO SCHEDULE ADDITIONAL PUBLIC HEARINGS:

The Governing Body Procedural Rules ("Procedural Rules") set forth the rules and procedures for preparing agendas for meetings of the Governing Body. The Procedural Rules were adopted by Resolution No. 2016-64, in accordance with Santa Fe City Code Section 2-1.11, which provides that "[t]he governing body shall make or adopt and enforce a complete set of rules of order."

Part IV of the Procedural Rules provide that the "City Manager . . . , through the City Clerk, shall prepare the agenda for all meetings of the Governing Body." The Procedural Rules state that "the City Manager may place on an agenda any matter so requested by a majority vote of all members of any city committee." The Procedural Rules also state that an item is not appropriate for the consent calendar if a majority of the Governing Body wishes to have the item heard at a public hearing.

ACTION REQUESTED:
Conduct a procedural vote to determine whether to discuss and vote on the resolution at tonight's meeting or whether to schedule the resolution for a public hearing at an upcoming meeting of the Governing Body, in addition to the public hearings that have already been conducted by the Governing Body and the Planning Commission and the additional public hearing that will be held by the Planning Commission after Governing Body approval of the resolution.

Signature: 

Email: ekmcsherry@santafenm.gov

Signature: 

Email: sapaez@santafenm.gov

11. DISCUSSION/ACTION ITEMS

a. Procedural Vote on Whether the Governing Body's Consideration of the Resolution Relate Vacation of a Portion of Existing Galisteo Street Right-of-Way Should Occur Tonight as a Discussion Item or Should Be Scheduled as a Public Hearing at an Upcoming Meeting of the Governing Body, in Addition to the Public Hearings that Have Already Been Held by the Governing Body and the Planning Commission, and the Additional Public Hearing that Will Be Held by the Planning Commission after Governing Body Approval of the Resolution (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)

Committee Review:

Governing Body: 07/14/2021

Name: Stefanie Beninato
Comment - 07/13/2021 05:33 PM: (No Vote)
I would request a public hearing on this matter

ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 07/07/2021
FOR CITY COUNCIL MEETING OF 07/14/2021

ISSUE:

CONSIDERATION OF RESOLUTION NO. 2021-__.
A Resolution Approving the Vacation of Existing Portions of the Galisteo Road Rights-of-Way at Galisteo Road's Intersection with Zia Road, Contingent on the Planning Commission's Approval of the Vacation of Existing Rights-of-Way and the Dedication of New Galisteo Road Right-of-Way South of Galisteo Road's Intersection with Zia Road in a New Alignment, and New Galisteo Road Right-of-Way North of Galisteo Road's Intersection with Zia Road. (Lee Logston, Senior Land Use Planner: lrlogston@santafenm.gov, 955-6136)

Committee Review:
Public Works and Utilities Committee: 06/28/21
Quality of Life Committee: 07/07/21
Governing Body: 07/14/21

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	X		

ACTION SHEET
PUBLIC WORKS AND UTILITES COMMITTEE MEETING OF 06/28/2021

ISSUE NO. 10a

CONSIDERATION OF RESOLUTION NO. 2021-__.
A Resolution Approving the Vacation of Existing Portions of the Galisteo Road Rights-of-Way at Galisteo Road's Intersection with Zia Road, Contingent on the Planning Commission's Approval of the Vacation of Existing Rights-of-Way and the Dedication of New Galisteo Road Rightof-Way South of Galisteo Road's Intersection with Zia Road in a New Alignment, and New Galisteo Road Right-of-Way North of Galisteo Road's Intersection with Zia Road. (Lee Logston, Senior Land Use Planner: lrlogston@santafenm.gov, 955-6136)

Committee Review:
Public Works and Utilities Committee: 06/28/21
Quality of Life Committee: 07/07/21
Governing Body: 07/14/21

PUBLIC WORKS AND UTILITES COMMITTEE ACTION: Approved to forward to 7/7/2021 Quality of Life Committee with the motion that this goes as a Public Hearing either to the 7/14/2021 Governing Body meeting or a subsequent committee with a yellow sign notice to the public.

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	EXCUSSED		

City of Santa Fe New Mexico
Memorandum

Date: June 23, 2021

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

Via: Elias Isaacson, AICP, Planning and Land Use Director ESI
Noah Berke, AICP, Planner Manager NLB

From: Lee Logston, AICP, Senior Land Use Planner LL

RE: Resolution to Approve the Partial Vacation of the Existing Galisteo Road Public Right-of-Way, Contingent on Final Approval by the Planning Commission

ITEM AND ISSUE:

A RESOLUTION APPROVING THE VACATION OF EXISTING PORTIONS OF THE GALISTEO ROAD RIGHTS-OF-WAY AT GALISTEO ROAD'S INTERSECTION WITH ZIA ROAD, CONTINGENT ON THE PLANNING COMMISSION'S APPROVAL OF THE VACATION OF EXISTING RIGHTS-OF-WAY AND THE DEDICATION OF NEW RIGHTS-OF-WAY IN NEW ALIGNMENTS.

RECOMMENDED ACTION:

The Governing Body should **ADOPT** Resolution No. 2021-__, which will allow the Planning Commission to grant final approval of the vacation of existing Galisteo Road public right-of-way, contingent on the Planning Commission approving the vacation and dedication of new right-of-way at the intersection of Galisteo Road and Zia Road, in conjunction with its review of an application for a final development plan.

EXECUTIVE SUMMARY:

Owner Zia Station, LLC (Applicant), through its agent Merritt Brown, filed an application with the Planning and Land Use Department, seeking City approval of the vacation of a portion of existing Galisteo Road right-of-way (ROW) at Zia Road and the dedication of new ROW north and south of Zia Road in a new alignment (Application). The Applicant also submitted a proposed plat entitled, "Partial Vacation and Dedication Plat for Galisteo Road." The Application relates to the Applicant's proposal to construct a mixed-use, transit-oriented project on 22.7 acres (less and except those lands owned by NMDOT) at the northwest and southwest corners of St. Francis Drive and Zia Road (Project). The properties are zoned C-2 PUD (General Commercial Planned Unit Development). The Project would include apartments and townhomes for the north parcel, and a

mix of residential, office, and commercial uses for the south parcel. Buildings are proposed to be two stories adjacent to existing residential, and three-stories closer to St. Francis Drive.

On April 28, 2021, the Governing Body approved multiple Applications related to the Project, including general plan amendments for the properties on the northwest and southwest corners of Zia Road and St. Francis Drive, rezoning requests, and a preliminary development plan. The preliminary development plan approved by the Governing Body incorporated the proposed realignment of the intersection of Galisteo Road, which would move the intersection of Galisteo Road and Zia Road approximately 200 feet west of its current location, and improvements to Galisteo's intersection with Zia Road and St. Francis Drive. The conditions of approval for the preliminary development plan state that "[a]ll roadway improvements associated with the development must be constructed prior to opening Phase I," including the Galisteo Road realignment, and require the Applicant to "file an application and obtain Governing Body approval to vacate a portion of the Galisteo Street right-of-way and to realign a portion of Galisteo Street."

The present Application seeks approval of the vacation of a portion of the existing Galisteo Road public right-of-way, which is owned by the City for public use, on the condition that the Planning Commission approve the vacation and the dedication of new public right-of-way to the City in the proposed new alignment pursuant to a final development plan.

The procedure for reviewing and approving the request to vacate existing public right-of-way is different than the procedure for reviewing and approving the dedication of new public right-of-way. Under applicable State and City law, the request to vacate a portion of the existing public right-of-way requires a public hearing before the Public Works and Utilities Committee, approval by the Governing Body (as the owner, in this instance, of the land to be vacated), and final approval by the Planning Commission.

After the Governing Body's approval of this Resolution to allow the partial vacation, the request to dedicate new right-of-way in a new alignment can be reviewed and approved by the Planning Commission (subject to final inspection and acceptance of public improvements by City staff). Staff anticipates that the Planning Commission will consider the proposed vacation, dedication, and realignment in conjunction with the Commission's review of an application for a final development plan, which also falls within the Commission's review and approval authority.

If this Application and an associated request for a final development plan are approved, then the Applicant will bear all costs related to the vacation of existing right-of-way and dedication of new right-of-way, including installation of a pedestrian activated HAWK crosswalk with mid-street pedestrian refuge. The Applicant must also obtain the consent of utility owners in the existing right of way and relocate utilities at the Applicant's expense. New public improvements would include the construction and dedication of a new section of Galisteo to the north of Zia Road, terminating in a cul-de-sac. This new section of roadway will provide Rail Trail parking. Galisteo will remain open along its current alignment throughout the construction process, and will be closed when the new roadway is inspected by the City and accepted as being built to City standards and ready for traffic.

ANALYSIS OF LEGAL REQUIREMENTS FOR VACATION:

State statute and City Ordinance set forth requirements that must be met before the City may approve the partial vacation of the existing public right-of-way. The Governing Body must base its decision on the approval criteria and balancing test set forth in the law. Staff's analysis of the relevant requirements is summarized in the tables below.

Table 1: Requirements from NMSA 1978, Section 3-20-12, Vacation or partial vacation of plat; approval of government having jurisdiction; duties of county clerk.

Requirement in Statute	Application to this Case
The owners of the land in the territory proposed to be vacated must sign a statement, duly acknowledged, declaring the plat or a portion of the plat to be vacated.	The City owns the public right-of-way proposed to be vacated. The New Mexico Supreme Court has concluded that a Resolution from the Governing Body can be used to meet this requirement. *See Sprague v. City of Las Vegas*, 1984-NMSC-052, ¶ 9, 679 P.2d 1283.
The owners' statement must be endorsed "Approved" by the planning authority of the municipality within whose platting jurisdiction the subdivision lies.	The New Mexico Supreme Court has concluded that the Planning Commission is the planning authority referenced in the statute. *See id.* If the Governing Body adopts the proposed Resolution, then Staff will submit the request to vacate existing public right-of-way to the Planning Commission for final review and approval, in conjunction with the request to dedicate new public right-of-way in a new alignment as part of a final development plan.
The vacation or partial vacation of a plat cannot adversely affect the interests or rights of persons in contiguous territory or within the subdivision being vacated.	This requirement is met because the Applicant owns all of the property contiguous to the right-of-way proposed for vacation.
The planning authority of the municipality may require that streets dedicated to the municipality in the original plat shall continue to be dedicated to the municipality	N/A. The proposed vacation and dedication realigns streets dedicated in the original plat. There would be no function in keeping the originally dedicated streets based on the development plan.
The owners of lots on the vacated plat or on the portion of the plat being vacated may enclose in equal proportions the adjoining streets and alleys which are authorized to be abandoned by the planning authority of the municipality	N/A. There are no adjoining streets or alleys to be abandoned.

The statement declaring the vacation or partial vacation of a plat and having the proper endorsements shall be filed in the office of the county clerk wherein the original plat is filed. The county clerk shall mark the applicable words "Vacated" or "Partially Vacated" across the plat and shall refer on the plat to the volume and page on which the statement of vacation or partial vacation is recorded.	If the Governing Body adopts the proposed Resolution, then both the Resolution and the plat entitled "Partial Vacation and Dedication Plat for Galisteo Road" will be filed in the records of the Santa Fe County Clerk.

Table 2: Requirements from Santa Fe City Code (SFCC) Section 23-1.2, Vacation or partial vacation of plat; approval of government having jurisdiction; duties of city clerk

Requirement in Ordinance	**Application to this Case**
Is the public right-of-way a necessary and integral part of the city's traffic and neighborhood scheme for travel?	The proposed realignment of the intersection of Galisteo Road and improvements to Galisteo's intersection with Zia Road and St. Francis Drive is an integral part of the preliminary development plan approved by the Governing Body, rendering the existing public right-of-way unnecessary for the neighborhood scheme of travel. It is also a recommended improvement by the Applicant's Traffic Engineer based on the proposed development and TIA.
Does the public right-of-way continue to be a necessary part of the city's utility easements which should not be disturbed?	The Applicant shall obtain the consent of utility companies in the existing right-of-way to dedicate new easements and relocate all utilities at the Applicant's sole expense. Therefore, the existing utility easements will be relocated.
Is the public right-of-way no longer needed or used as a public right-of-way, or has the right-of-way become a public nuisance?	The public right-of-way is not a public nuisance. The existing public right-of-way will no longer be needed for public travel as the new alignment will allow for equivalent or better public travel.
Have at least seventy-five percent (75%) of the grantors or their successors in interest approved of the vacation?	The Applicant is the successor in interest of the grantors who created the public right-of-way and owns all of the land contiguous to the areas proposed for partial vacation and dedication.

Does the city believe it is in the city's best interests to vacate or partially vacate the plat?	Because the proposed realignment of the intersection of Galisteo Road and improvements to Galisteo's intersection with Zia Road and St. Francis Drive is an integral part of the preliminary development plan approved by the Governing Body, the city has indicated that it is in the city's best interests to vacate the existing right-of-way.
In no circumstance shall any property be landlocked as a result of the vacation or partial vacation of a plat.	No property shall be landlocked as a result of the proposed vacation of right-of-way.
Have the owners of the land in the territory proposed to be vacated signed a statement, duly acknowledged, declaring the plat or a portion of the plat to be vacated?	As noted in Table 1 above, this requirement will be satisfied if the Governing Body adopts the proposed Resolution, as recommended by staff.
Has the owners' statement been endorsed "Approved" by the planning authority of the municipality within whose platting jurisdiction the subdivision lies?	As noted in Table 1 above, if the Governing Body adopts the proposed Resolution, then staff will then Staff will submit the request to vacate existing public right-of-way to the Planning Commission for final review and approval.
Has the public works and utilities committee reviewed each request for a vacation of plat or partial vacation of plat and make its recommendation for approval or denial of the request at a public hearing?	The request is scheduled for a public hearing and recommendation from the Public Works and Utilities Committee on June 28, 2021.
Will the partial vacation of a plat adversely affect the interests or rights of persons in contiguous territory or within the subdivision being vacated?	This requirement is met because the Applicant owns all of the property contiguous to the right-of-way proposed for vacation.
In approving the vacation or partial vacation of a plat, the planning authority of the municipality may require that streets dedicated to the municipality in the original plat shall continue to be dedicated to the municipality	N/A. The proposed vacation and dedication realigns streets dedicated in the original plat. There would be no function in keeping the originally dedicated streets based on the development plan.
The owners of lots on the vacated plat or on the portion of the plat being vacated may enclose in equal proportions the adjoining streets and alleys which are authorized to be abandoned by the planning authority of the municipality	N/A. There are no adjoining streets or alleys to be abandoned.
The statement declaring the vacation or partial vacation of a plat and having the	As noted in Table 1 above, if the Governing Body adopts the proposed Resolution, then

proper endorsements shall be filed in the office of the county clerk wherein the original plat is filed. The county clerk shall mark the applicable words "Vacated" or "Partially Vacated" across the plat and shall refer on the plat to the volume and page on which the statement of vacation or partial vacation is recorded.	both the Resolution and the plat entitled "Partial Vacation and Dedication Plat for Galisteo Road" will be filed in the records of the Santa Fe County Clerk.
The rights of any utility already existing shall not be affected by any vacation or partial vacation of a plat.	The Applicant shall obtain the consent of utility owners in the existing right-of-way to dedicate new easements and relocate all utilities at the Applicant's sole expense. Therefore, the rights of any existing utility will not be affected.

ATTACHMENTS

Resolution
Exhibit A

1. Application
2. Plat entitled, "Partial Vacation and Dedication Plat for Galisteo Road"
3. April 6 & 8, 2021 Governing Body Minutes
4. Item #21-0191 Case #2020-2900 Findings of Fact and Conclusions of Law
5. Item #21-0192 Case #2020-2901 Findings of Fact and Conclusions of Law
6. Item #21-0193 Case #2020-2899 Findings of Fact and Conclusions of Law
7. Item #21-0194 Case #2020-2898 Findings of Fact and Conclusions of Law
8. Item #21-0195 Case #2020-2914 Findings of Fact and Conclusions of Law

Fiscal Impact Report

APPENDIX

1. NM NMSA 1978, Section 3-20-12, Vacation or partial vacation of plat; approval of government having jurisdiction; duties of county clerk.
2. Santa Fe City Code (SFCC) Section 23-1.2, Vacation or partial vacation of plat; approval of government having jurisdiction; duties of city clerk.

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-___

A RESOLUTION

APPROVING THE VACATION OF EXISTING PORTIONS OF THE GALISTEO ROAD RIGHTS-OF-WAY AT GALISTEO ROAD'S INTERSECTION WITH ZIA ROAD, CONTINGENT ON THE PLANNING COMMISSION'S APPROVAL OF THE VACATION OF EXISTING RIGHTS-OF-WAY AND THE DEDICATION OF NEW GALISTEO ROAD RIGHT-OF-WAY SOUTH OF GALISTEO ROAD'S INTERSECTION WITH ZIA ROAD IN A NEW ALIGHMENT, AND NEW GALISTEO ROAD RIGHT-OF-WAY NORTH OF GALISTEO ROAD'S INTERSECTION WITH ZIA ROAD.

WHEREAS, Zia Station, LLC, owns parcels of land comprising approximately 22.7 acres (less and except those lands owned by NMDOT) located at the northwest and southwest corners of the intersection of Zia Road and Saint Francis Drive within Section 2, T.16N., R.9E., N.M.P.M., in Santa Fe County, New Mexico (the "Property"); and

WHEREAS, on February 18, 2021, the Planning Commission voted to recommend approval of general plan amendments, rezonings, and a preliminary development plan for the Property, which included a proposed realignment of Galisteo Road at its intersection with Zia Road and improvements

to the intersections of Galisteo Road and Zia Road, and of Zia Road and Saint Francis Drive; and

WHEREAS, on April 8, 2021, the Governing Body voted to approve the general plan amendments, rezonings, and the preliminary development plan for the Property; and

WHEREAS, on April 28, 2021, the Governing Body adopted written Findings of Fact and Conclusions of Law reflecting its decision to approve the general plan amendments, rezonings, and the preliminary development plan for the Property, which were filed with the records of the City Clerk as Items #21-0191, #21-0192, #21-0193, #21-0194, and #21-0195; and

WHEREAS, on May 13, 2021, Zia Station, LLC, through its agent Merritt F. Brown, filed an application to vacate portions of the existing Galisteo Road public rights-of-way at the intersection with Zia Road and proposed to dedicate new public rights-of-way in new alignments as part of the Zia Station development plan; and

WHEREAS, in conjunction with the May 13, 2021 application, Zia Station, LLC, submitted a "Partial Vacation and Dedication Plat for Galisteo Road," which shows the existing rights-of-way proposed for vacation and the location of the new rights-of-way proposed to be dedicated to the City; and

WHEREAS, City staff has reviewed the application and proposed "Partial Vacation and Dedication Plat for Galisteo Road," and has recommended approval by the Governing Body and the Planning Commission; and

WHEREAS, the realignments of Galisteo Road on the north and south sides of Zia Road, and the improvements of the intersections of Zia Road with Galisteo Road and with Saint Francis Drive, are integral elements of the preliminary development plan for the Property, as recommended by the Planning Commission and approved by the Governing Body; and

WHEREAS, Zia Station, LLC, is the fee-simple owner of all land contiguous to the portion of the Galisteo Road public rights-of-way proposed for vacation and realignment; and

WHEREAS, no property will become landlocked by virtue of the proposed vacations and

realignments; and

WHEREAS, the City obtained ownership of the portion of the public right-of-way proposed for vacation when the City annexed land from the County of Santa Fe that included the affected portion of Galisteo Road, which was previously known as County Road No. 69, as shown on the plat entitled "Lands within Sections 2 & 3 T16N R9E N.M.P.M. for Annexation to the City of Santa Fe Adjacent to its South and East Boundaries," which was filed in the records of the Santa Fe County Clerk on July 22, 1977, in Plat Book 55, Page 21, as Instrument Number 405,730; and

WHEREAS, the public right-of-way proposed for vacation is depicted on additional plats that have been filed in the records of the Santa Fe County Clerk, including the subdivision plat entitled "Candelero de Santa Fe, Unit III," which was filed on July 16, 1980, in Plat Book 82, Page 15, as Instrument Number 461,337; and the survey plat filed on September 22, 2003, in Plat Book 542, Page 24, as Instrument Number 1291,612; and

WHEREAS, SFCC 1987, Section 2-1.7 provides that the Governing Body shall have the management and control of all real property belonging to the City; and

WHEREAS, pursuant to NMSA 1978, Section 3-19-1(B)(1) (1965), and SFCC 1987, Section 14-2.3(B), the Governing Body has delegated to the Planning Commission the power, authority, jurisdiction, and duty to enforce and carry out the provisions of New Mexico law and the City Code relating to planning, platting, and zoning, except for those powers reserved to the Governing Body; and

WHEREAS, NMSA 1978, Section 3-49-1, authorizes the City to lay out, establish, open, vacate, alter, widen, extend, or otherwise improve public streets; and

WHEREAS, SFCC 1987, Section 23-1.2 sets forth procedures and requirements for the partial vacation of a plat, including a public hearing before the Public Works and Utilities Committee; and

WHEREAS, NMSA 1978, Section 3-20-12, provides for partial vacation of a plat if "(1) the owners of the land in the territory proposed to be vacated sign a statement, duly acknowledged, declaring the plat or a portion of the plat to be vacated; and (2) the statement is endorsed 'Approved'

by the planning authority of the municipality within whose platting jurisdiction the subdivision lies"; and

WHEREAS, in *Sprague v. City of Las Vegas*, 1984-NMSC-052, ¶ 8, 679 P.2d 1283, the New Mexico Supreme Court interpreted NMSA 1978, Section 3-20-12, to include the following three requirements: "(1) the owners of the property sought to be vacated must sign a statement declaring the property to be vacated; (2) the owners' statement must be approved by the planning authority; and (3) the owners' statement must be appropriately filed"; and

WHEREAS, pursuant to SFCC Section 23-1.2, Section 3-20-12, and *Sprague*, partial vacation of the existing right-of-way requires a public hearing before the Public Works and Utilities Committee, a statement by the Governing Body approving the vacation, and the subsequent approval of the Planning Commission; and

WHEREAS, the Governing Body has delegated to the Planning Commission the authority to approve the dedication to the City of new public right-of-way that is required to serve new development, subject to final inspection and acceptance by City staff; and

WHEREAS, on June 28, 2021, the Public Works and Utilities Committee held a public hearing on the application and proposed "Partial Vacation and Dedication Plat for Galisteo Road," reviewed the staff report and the evidence presented at the public hearing, and recommended approval of the proposed vacation; and

WHEREAS, approval of the application and proposed "Partial Vacation and Dedication Plat for Galisteo Road" will allow Zia Station, LLC, to shift the intersection of Galisteo Road and Zia Road approximately two-hundred (200) feet west of its current location, in accordance with the approved preliminary development plan; and

WHEREAS, traffic studies conducted on behalf of Zia Station, LLC, and reviewed by City traffic engineers demonstrate that moving the intersection of Galisteo Road and Zia Road two hundred (200) feet further west will improve traffic flows through the intersection of Zia Road and Saint Francis

Drive; and

WHEREAS, the proposed realignment of Galisteo Road would result in Galisteo Road intersecting Zia Road at a ninety (90) degree angle instead of the current acute angle; and

WHEREAS, pursuant to the approved preliminary development plan, Zia Station, LLC, will construct the proposed new intersection of Galisteo Road and Zia Road with a HAWK pedestrian crossing, which will be a light-controlled, pedestrian-activated crossing that will greatly improve pedestrian access and safety across Zia Road for the adjacent neighborhoods and those wishing to access the Rail Runner Station; and

WHEREAS, the current Galisteo Road segment north of Zia Road consists of a dirt path of approximately thirty-five to forty-five feet (35' - 45') in width, which narrows and then terminates at its intersection with the old railroad right-of-way; and

WHEREAS, the current Galisteo Road segment north of Zia Road does not meet the Street Design and Improvement Standards set forth in Chapter 14 of the SFCC; and

WHEREAS, pursuant to the approved preliminary development plan, Zia Station, LLC, shall build a new paved extension of Galisteo Road on the north side of Zia Road to a width of fifty feet (50'), which will meet the Street Design and Improvement Standards for a sub-collector with on-street parking, as set forth in Chapter 14 of the SFCC; and

WHEREAS, the approved preliminary development plan reflects that the new paved extension of Galisteo Road on the north side of Zia Road will include a full 50' radius cul-de-sac at its new terminus; and

WHEREAS, to realign the public rights-of-way, Zia Station, LLC, must obtain consent from owners of existing utilities located in the existing public right-of-way because, pursuant to State and City law, the partial vacation of a plat cannot be approved if the vacation would adversely affect the rights of any utility; and

WHEREAS, Zia Station, LLC, is responsible for all costs associated with the vacation and

realignment, including engineering, construction, and the relocation of existing utilities, including power and communications lines, a City of Santa Fe water line, and an underground gas line; and

WHEREAS, the proposed vacation and realignment of Galisteo Road would enable the public rights-of-way and associated utility easements to remain as necessary parts of the City's traffic and neighborhood scheme for travel and infrastructure, and would enhance traffic and pedestrian safety;

WHEREAS, the preliminary development plan is subject to a condition of approval that all improvements to Zia Road and Galisteo Road, including the realignment, must be constructed prior to the opening of Phase I of the Zia Station Development; and

WHEREAS, newly dedicated public rights-of-way are inspected by the City and must be accepted by the City before the City assumes ownership and maintenance responsibilities for the rights-of-way.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the proposed partial vacation of the existing Galisteo Road public rights-of-way is approved, contingent upon the Planning Commission's subsequent approval of the proposed vacation and the dedication of new rights-of-way in the new alignments, as set forth in the approved preliminary development plan for the Property.

PASSED, APPROVED, and ADOPTED this ____ day of _____ 2021.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

KRISTINE MIHELCIC, CITY CLERK

APPROVED AS TO FORM:



ERIN K. MCSHERRY, CITY ATTORNEY

Legislation/2021/Resolutions/Galisteo Road Plat Vacation

City of Santa Fe, New Mexico

Case #2021-3662
Galisteo Road ROW Vacation
Public Works Committee
June 28, 2021

Exhibit A

1. **Application**
2. **Plat entitled, "Partial Vacation and Dedication Plat for Galisteo Road"**
3. **April 6 & 8, 2021 Governing Body Minutes**
4. **Item #21-0191 Case #2020-2900 Findings of Fact and Conclusions of Law**
5. **Item #21-0192 Case #2020-2901 Findings of Fact and Conclusions of Law**
6. **Item #21-0193 Case #2020-2899 Findings of Fact and Conclusions of Law**
7. **Item #21-0194 Case #2020-2898 Findings of Fact and Conclusions of Law**
8. **Item #21-0195 Case #2020-2914 Findings of Fact and Conclusions of Law**

PLAN OR PLAT AMENDMENT APPLICATION

Parcel Information

Project Name: PARTIAL VACATION AND DEDICATION PLAT FOR GALISTEO RD.

Address: 2401-2425 GALISTEO RD & 219 W. ZIA RD. Zoning: C-2, PUD

Previous Approvals: PRELIM. DEVO PLAN & REZONING Purpose of Amendment: GALISTEO RD. REALIGNMENT

Property Owner Information

Company Name: ZIA STATION, LLC

Name: Last First M.I.

Address: P.O. BOX 5735 Suite/Unit #
Street Address

SANTA FE NM 87502
City State ZIP Code

Phone: (505) 473.7800 E-mail Address: merritt@sfbrown.com

Applicant/Agent Information (if different from owner)

Company Name: SF BROWN, INC.

Name: BROWN MERRITT F.
Last First M.I.

Address: 2905 RODEO PARK DRIVE EAST BUILDING 4, SUITE 202
Street Address Suite/Unit #

SANTA FE NM 87505
City State ZIP Code

Phone: (505) 920-7011 E-mail Address: merritt@sfbrown.com

Correspondence Directed to: ☐ Owner ☒ Applicant ☐ Both

Agent Authorization (if applicable)

I am/We are the owner(s) and record title holder(s) of the property located at: 2401-2425 GALISTEO RD & 219 W. ZIA RD.

I/We authorize MERRITT BROWN OF SF BROWN, INC to act as my/our agent to execute this application.

Signed: [signature] Date: 5/18/21

Signed: Date:

Signature

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 2001. Failure to meet these standards may result in the rejection of my application. I also certify that I have met with the City's Current Planning staff in a preapplication meeting to verify that the attached proposal is in compliance with the City's zoning and annexation requirements.

Signature: [signature] Date: 5/18/21

May 13, 2021

Mr. Lee Logston
Planning and Land Use Dept.
City of Santa Fe
PO Box 909
Santa Fe, NM 87504-0909

RE: Vacation and Dedication Plat - Galisteo Road in the vicinity of Zia Rd.
Zia Station Project

Mr. Logston,

Please let this letter serve as our formal application to the City of Santa Fe, along with the attached "***Partial Vacation and Dedication Plat for Galisteo Rd – Zia Station LLC***", prepared by Larry Medrano, NMPLS#11993, for the above referenced action as it relates to our Zia Station project now winding its way the through your department.

As you are aware, the realignment of Galisteo Road, both north and south of Zia Rd, is an integral element of the land use plan for the Zia Station project; shifting the Galisteo Rd / Zia Rd. intersection approximately 200' further west allows for vastly improved traffic flows through the Zia Rd. /St. Francis Drive intersection, enhancing public safety.

For all discussions, questions, or comments regarding this application, please direct all communications to me, as agent for the land ownership entity, Zia Station, LLC. I can be reached at:

Merritt F. Brown – SF Brown, Inc.
Mailing Address: P.O. Box 5735 – Santa Fe, NM 87502
Physical address: 2905 Rodeo Park Drive East – Building 4, Suite 202 – Santa Fe, NM 87505
Email address: merritt@sfbrown.com
Cell Phone: 505-920-7011
Work Phone: 505-473-7800 x.111

Zia Station, LLC is the fee-simple owner of the lands surrounding both the north and south segments Galisteo Road as shown on the accompanying draft plat, and as such will be bearing all costs related to this potential dedication of new right-of-way and vacation of old right-of-way, and will also be bearing the full costs of the engineering and construction of the new roadway contemplated herein.

In addition to the public safety benefit described above, a realigned Galisteo Rd. also:

- Creates a safer Galisteo/Zia Rd intersection as Galisteo will now intersect Zia Rd at a 90 degree angle versus the current acute angle (75-80 degrees)
- The proposed new Galisteo/Zia intersection will be constructed with a HAWK pedestrian crossing – a light-controlled, pedestrian activated crossing that will greatly improve pedestrian access, and most importantly, pedestrian safety, across Zia Rd for the adjacent neighborhoods and those wishing to access the Rail Runner Station.
- Provide for a full Galisteo roadway width north of Zia Rd - A 50' right-of-way (Sub-collector, on-street parking) versus the existing right-of-way/easement width of between 35' and 45'.
- Provide for a full 50' radius cul-de-sac for the terminus of Galisteo Rd. Currently the right-of-way/easement just tapers to zero as it terminates where it intersected the old railroad right-of-way.
- The current Galisteo Rd. segment north of Zia Rd. is just a dirt 'path – the new Galisteo Rd will be a fully paved roadway section.

- Utilities in the existing right-of-way will be relocated at the sole expense of Zia Station, LLC
  - Power, and communications line(s), if any, will be relocated to the new right-of-way.
  - A City of Santa Fe water line, currently terminating on the south side of Zia Rd, will be relocated to the new Galisteo right-of way and extended north of Zia Rd.
  - An underground gas line, for which there is no recorded easement, will be relocated to the new Galisteo alignment and extended north, underneath and beyond the Arroyo de los Chamisos.
  - There is no public sewer located within the Galisteo right-of-way.
- As stated above, Zia Station, LLC, the applicant, is the fee-simple owner of all the lands contiguous to the Galisteo Roadway, both in its current configuration and in its proposed location.
- No property will be landlocked by virtue of this proposed realignment.

Another vitally important aspect of this application is that Galisteo Rd., in its current location, shall remain in service as a public access and utility easement until a newly constructed Galisteo Rd. has been accepted for public use by the City of Santa Fe.

We look forward to working with the City of Santa Fe in implementing this important public improvement. Please contact me with any questions or comments.

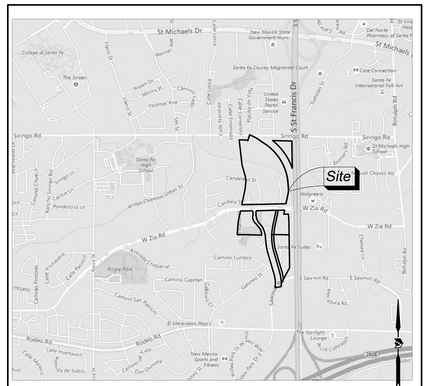
Sincerely,

Merritt F. Brown
SF Brown, Inc., for Zia Station, LLC

w/attachments

sf BROWN	Commercial/Residential	Construction Management	TEL	505 / 473-7800
	Real Estate	Development	FAX	505 / 473-7840
	Post Office Box 5735 ▪ Santa Fe, New Mexico ▪ 87502		WEB	sfbrown.com

Partial Vacation and Dedication Plat for Galisteo Road by
Zia Station LLC
City of Santa Fe, Santa Fe County, New Mexico
May 2021



Intent of Plat

VACATION OF PORTION OF GALISTEO ROAD WITHIN TRACT 3

VACATION OF PORTION OF GALISTEO ROAD WITHIN TRACT 9

DEDICATION OF PORTION OF GALISTEO ROAD WITHIN TRACTS 5 AND 6

Legal Description

PARCELS WITHIN SECTION 2, TOWNSHIP 16 NORTH, RANGE 9 EAST, N.M.P.M., SANTA FE COUNTY, NEW MEXICO.

Reference Documents

1. BOUNDARY SURVEY LANDS OF ZIA STATION (10/04/2017, BOOK 825, PAGES 4–6, INSTRUMENT NUMBER 1838005)
2. PLAT OF SURVEY FOR MARTHA CHAFET (09/22/2003, BOOK 542, PAGE 24, INSTRUMENT NUMBER 1291–612)
3. ALTA/ACSM SURVEY FOR CR MINERALS– NEW MEXICO, L.L.C. (10/27/2000, BOOK 458, PAGE 25)
7. WARRANTY DEED (SFC CLERK RECORDED 03/14/2005, INSTRUMENT NO. 1370877)
8. SPECIAL WARRANTY DEED (SFC CLERK RECORDED 01/09/2008, INSTRUMENT NO. 1511704)
9. SPECIAL WARRANTY DEED (SFC CLERK RECORDED 01/10/2008, INSTRUMENT NO. 1511858)
10. QUITCLAIM DEED (SFC CLERK RECORDED 01/10/2008, INSTRUMENT NO. 1511859)

Notes

1. PLAT SHOWS ALL EASEMENTS OF RECORD.
2. EASEMENT BEARINGS AND DISTANCES SHOWN HEREON ARE RECORD AND EASEMENTS HAVE BEEN ROTATED TO MATCH BASIS OF BEARINGS AND BOUNDARY UNLESS OTHERWISE INDICATED.
3. TRACT NUMBERS SHOWN HEREON REFLECT THOSE NUMBERS SHOWN ON THE BOUNDARY SURVEY RECORDED 10/40/2017, IN BOOK 825 PAGES 4–6, AS INSTRUMENT NO. 1838005, IN THE SANTA FE COUNTY CLERK'S OFFICE.
4. BASIS OF BEARINGS: NEW MEXICO STATE PLANE COORDINATES– CENTRAL ZONE, PER OPUS SOLUTION. BEARINGS SHOWN ARE GRID, DISTANCES ARE GROUND.
5. FLOOD PLAIN INFORMATION AS GRAPHICALLY SHOWN IS FROM MAP NO. 35049C0414E, WITH AN EFFECTIVE DATE OF DECEMBER 12, 2012.

Dedication / Vacation Statement

KNOW ALL (MEN?) BY THESE PRESENTS THAT THE UNDERSIGNED OWNERS AND PROPRIETORS OF THE PARCELS SHOWN HEREON, HAVE CAUSED THE VACATION OF THOSE DESIGNATED PUBLIC RIGHTS–OF–WAY AND THE SUBSEQUENT DEDICATION OF PUBLIC RIGHT–OF–WAY IN FEE SIMPLE TO THE CITY OF SANTA FE TO SUPPLANT THOSE VACATED BY THIS INSTRUMENT. ALL THAT APPEARS ON THIS PLAT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS AND PROPRIETORS. THE LOTS SHOWN HEREON LIE WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE CITY OF SANTA FE, NEW MEXICO.

Free Consent

THE REPLAT (PARTIAL VACATION AND DEDICATION) SHOWN HEREON IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER. SAID OWNERS WARRANT THAT THEY HOLD AMONG THEM COMPLETE AND INDEFEASIBLE TITLE IN FEE SIMPLE TO THE LAND REPLATTED.

?????????? DATE

Acknowledgment

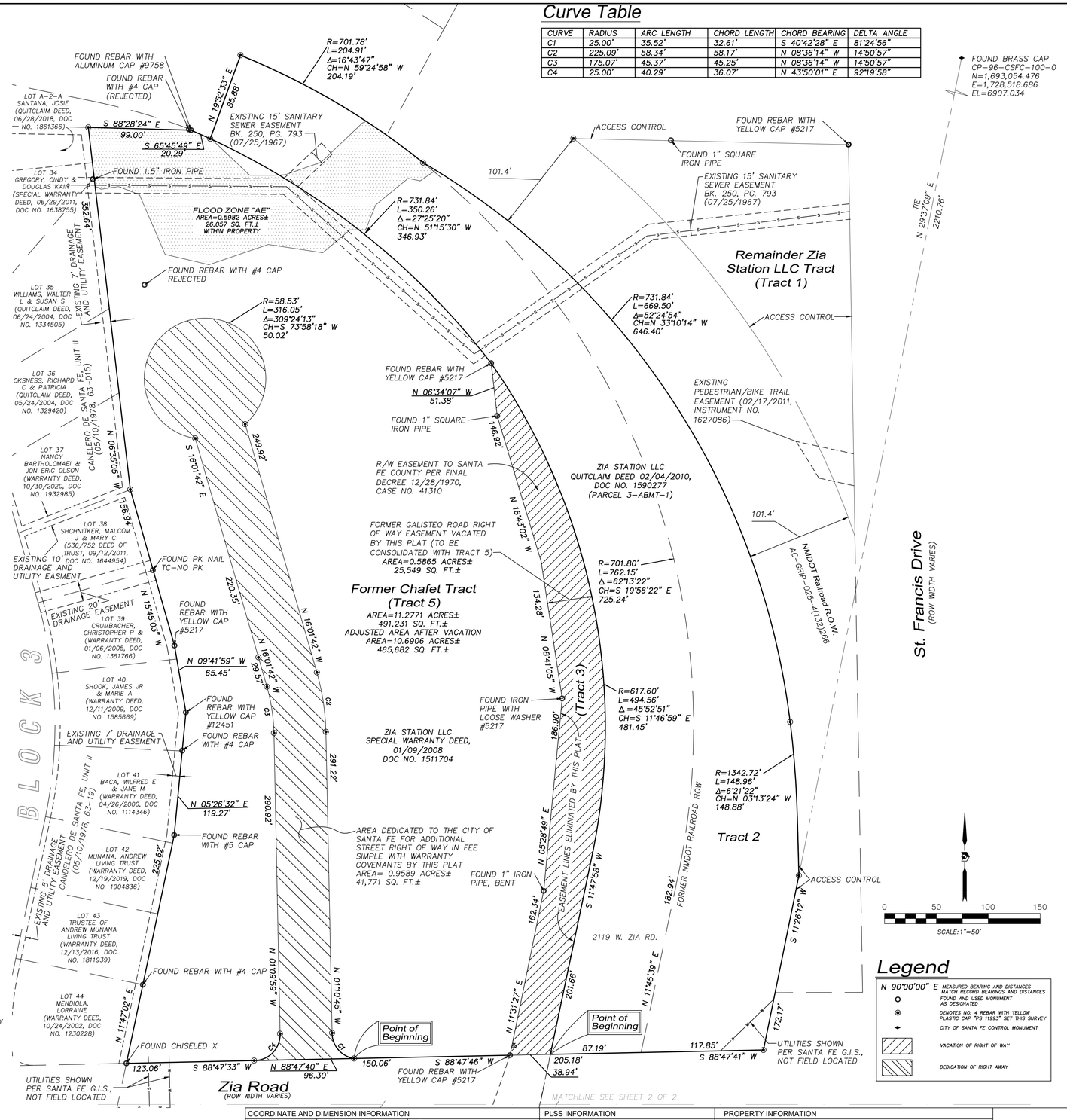
STATE OF NEW MEXICO } SS
COUNTY OF SANTA FE)

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2021 BY ?????????????

BY _____ MY COMMISSION EXPIRES: _____
NOTARY PUBLIC

Curve Table

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00'	35.52'	32.61'	S 40°42'28" E	81°24'56"
C2	225.09'	58.34'	58.17'	N 08°36'14" W	14°50'57"
C3	175.07'	45.37'	45.25'	N 08°36'14" W	14°50'57"
C4	25.00'	40.29'	36.07'	N 43°50'01" E	92°19'58"



Legend

N 90°00'00" E	MEASURED BEARING AND DISTANCES MATCH RECORD BEARINGS AND DISTANCES
○	FOUND AND USED MONUMENT AS DESIGNATED
◉	DENOTES NO. 4 REBAR WITH YELLOW PLASTIC CAP "PS 11993" SET THIS SURVEY
◆	CITY OF SANTA FE CONTROL MONUMENT
▨	VACATION OF RIGHT OF WAY
▨	DEDICATION OF RIGHT AWAY

Approval by Planning Commision

APPROVED BY THE SANTA FE PLANNING COMMISSION AT THEIR MEETING OF _____ 2021, AS CASE NO. 2021–_____

PLANNING COMMISSION CHAIRPERSON DATE

PLANNING COMMISSION SECRETARY DATE

Reviewed By

CITY ENGINEER FOR LAND USE DATE

CITY PLANNER DATE

SANTA FE COUNTY TREASURER DATE

QWEST CORP. D/B/A/ CENTURYLINK QC DATE

COMCAST DATE

PNM DATE

NMGCO DATE

COUNTY OF SANTA FE } SS
STATE OF NEW MEXICO}

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THIS_____DAY OF _____ A.D. 2021, AT_____ O'CLOCK___M., AND WAS DULY RECORDED IN BOOK____, PAGE_____OF THE RECORDS OF SANTA FE COUNTY.

WITNESS MY HAND AND SEAL OF OFFICE
KATHARINE E. CLARK
COUNTY CLERK, SANTA FE COUNTY, NM

_____ DEPUTY

Surveyor's Certificate

I, LARRY W. MEDRANO, A REGISTERED NEW MEXICO PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NEW MEXICO, HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY MEETING THE MINIMUM REQUIREMENTS FOR MONUMENTATION AND SURVEYS OF THE COUNTY OF SANTA FE SUBDIVISION ORDINANCE AND OF THE MINIMUM STANDARDS FOR LAND SURVEYS AS ADOPTED BY THE N.M. BOARD OF LICENSURE FOR ENGINEERS AND SURVEYORS AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT NO ENCROACHMENTS EXIST EXCEPT AS NOTED ABOVE AND THAT ALL IMPROVEMENTS ARE SHOWN IN THEIR CORRECT LOCATION RELATIVE TO RECORD BOUNDARIES AS LOCATED BY THIS SURVEY.

Preliminary

LARRY W. MEDRANO DATE
N.M.P.S. No. 11993

DIGITAL SIGNATURE IS INVALID WITHOUT DIGITAL CERTIFICATION

LARRY W. MEDRANO NEW MEXICO 11993 REGISTERED PROFESSIONAL SURVEYOR

COORDINATE AND DIMENSION INFORMATION				PLSS INFORMATION				PROPERTY INFORMATION			
STATE PLANE ZONE: NM-C	GRID /GROUND COORDINATES: GRID	TYPE: STANDARD		LAND GRANT N/A				PROPERTY OWNER ZIA STATION LLC.			
HORIZONTAL DATUM: NAD83	VERTICAL DATUM: NAVD88	ROTATION ANGLE: 0° 00' 00.00"	MATCHES DRAWING UNITS: YES	SECTION 2	TOWNSHIP 16 NORTH	RANGE 9 EAST	MERIDIAN NMPM	SUBDIVISION NAME ZIA STATION			
CONTROL USED: NATIONAL GEODETIC SURVEY		BASE POINT FOR SCALING AND/OR ROTATION: N = 0 E = 0		CITY SANTA FE		COUNTY SANTA FE	STATE NM	UPC 1053096220362000000 1053096217267000000 1053096226237000000 1053096187325000000 1053096214234000000 1053096231196000000			
COMBINED SCALE FACTOR: GRID TO GROUND: 1.00041747 GROUND TO GRID: 0.99958270	DISTANCE ANNOTATION: GROUND	BEARING ANNOTATION: GRID	ELEVATION TRANSLATION: ±0.00'	ELEVATIONS VALID: NO							

PRECISION SURVEYS, INC.
OFFICE LOCATION:
9200 San Mateo Boulevard, NE
Albuquerque, NM 87113
505.856.5700 PHONE
505.856.7900 FAX

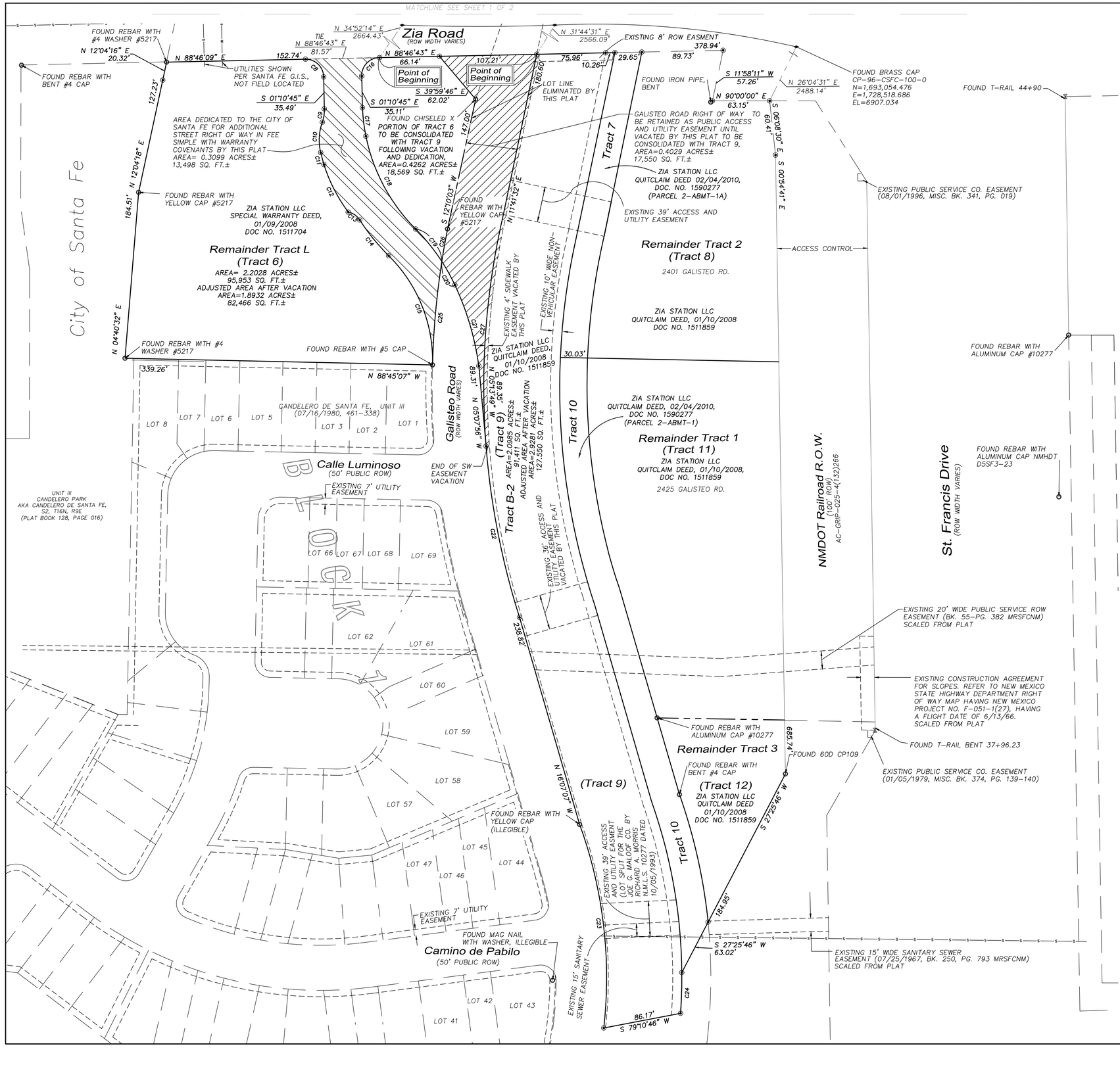
PROJECT INFORMATION	
CREW/TECH: MT/SP	DATE OF SURVEY 10/19/2020
DRAWN BY: JK	CHECKED BY: LM
PSI JOB NO. 204129P	SHEET NUMBER 1 OF 2

MATCHLINE SEE SHEET 1 OF 2

Partial Vacation and Dedication Plat for Galisteo Road by

Zia Station LLC

City of Santa Fe, Santa Fe County, New Mexico
May 2021



Legend

N 90°00'00" E	MEASURED BEARING AND DISTANCES MATCH RECORD BEARINGS AND DISTANCES
○	FOUND AND USED MONUMENT AS DESIGNATED
◉	DENOTES NO. 4 REBAR WITH YELLOW PLASTIC CAP "PS 11993" SET THIS SURVEY
◆	CITY OF SANTA FE CONTROL MONUMENT
▨	VACATION OF RIGHT OF WAY
▨	DEDICATION OF RIGHT AWAY

0 50 100 150
SCALE: 1"=50'

COUNTY OF SANTA FE } SS
STATE OF NEW MEXICO }

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THIS_____DAY OF _____ A.D. 2021, AT_____ O'CLOCK__ M., AND WAS DULY RECORDED IN BOOK____, PAGE _____OF THE RECORDS OF SANTA FE COUNTY.

WITNESS MY HAND AND SEAL OF OFFICE
KATHARINE E. CLARK
COUNTY CLERK, SANTA FE COUNTY, NM

_____
DEPUTY

Curve Table

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C8	20.00'	31.43'	28.30'	N 46°12'18" W	90°03'06"
C9	39.52'	14.99'	14.90'	S 08°21'56" W	21°43'38"
C10	60.53'	34.26'	33.80'	S 03°00'50" W	32°25'35"
C11	255.79'	13.69'	13.68'	S 14°44'06" E	3°03'56"
C12	180.16'	59.36'	59.09'	S 27°01'02" E	18°52'44"
C13	20.01'	15.73'	15.33'	S 55°22'05" E	45°03'28"
C14	245.28'	50.99'	50.89'	S 38°47'37" E	11°54'35"
C15	163.66'	134.08'	130.36'	S 21°49'33" E	46°56'20"
C16	20.00'	31.40'	28.27'	S 43°47'59" W	89°57'29"
C17	584.17'	48.86'	48.85'	S 01°27'46" W	4°47'33"
C18	499.17'	229.15'	227.15'	N 06°44'11" W	26°18'09"
C19	221.00'	46.14'	46.06'	N 38°46'02" W	11°57'44"
C20	221.00'	29.84'	29.82'	N 28°55'05" W	7°44'11"
C21	310.63'	93.83'	93.47'	N 16°23'47" W	17°18'24"
C22	221.09'	76.01'	75.64'	N 34°53'57" W	19°41'55"
C23	203.27'	118.25'	116.59'	N 28°04'56" W	33°19'57"
C24	584.47'	45.19'	45.18'	N 01°42'53" E	4°25'47"
C25	894.43'	115.16'	115.08'	S 05°05'46" W	7°22'36"
C26	899.41'	36.59'	36.59'	S 09°55'47" W	2°19'51"
C27	849.25'	259.09'	258.09'	S 04°16'23" W	17°28'48"

PRECISION SURVEYS, INC.

OFFICE LOCATION:
9200 San Mateo Boulevard, NE
Albuquerque, NM 87113

505.856.5700 PHONE
505.856.7900 FAX

PROJECT INFORMATION	
CREW/TECH: MT/SP	DATE OF SURVEY 10/19/2020
DRAWN BY: JK	CHECKED BY: LM
PSI JOB NO. 204129P	SHEET NUMBER 2 OF 2

City of Santa Fe

AGENDA

SPECIAL MEETING OF THE GOVERNING BODY
APRIL 06, 2021
6:00 PM
ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR SPECIAL 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 in excess of those permitted in the current Public Health Order, the Special 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 on-line at any time during normal business hours. Please call 955-6521 for assistance.

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 Public Hearing items to be considered through 1:00 p.m. the day of the meeting, via the virtual comment "button" at https://santafe.primegov.com/public/portal.

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/94614125827?pwd=UWgvZTIZSFBGRmpsbmlvdVNNcmJYdz09. **Passcode: 341626**
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: 946 1412 5827 - Passcode: 341626**

City of Santa Fe

AGENDA

SPECIAL MEETING OF THE GOVERNING BODY
APRIL 06, 2021
6:00 PM
ATTEND VIRTUALLY

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

1. **CALL TO ORDER**

2 **PLEDGE OF ALLEGIANCE**

3 **SALUTE TO THE NEW MEXICO FLAG**

4 **INVOCATION**

5. **ROLL CALL**

6. **APPROVAL OF AGENDA**

7. **PUBLIC HEARINGS**

Please Note:

- *The five (5) related land use cases set forth below will be heard concurrently in a single public hearing.*
- *Some agenda captions have been slightly modified from their original version (as presented to the Planning Commission) in an effort to further clarify each caption and help distinguish each item.*
- *Due to the anticipated length and complexity of the hearing, the hearing will take place over the course of two (2) meetings of the Governing Body. The public comment portion of the hearing will take place ONLY at the first meeting, scheduled for April 6, 2021. Additional public comment will not be received at the second meeting, scheduled for April 8, 2021.*

a. **Case #2020-2898. North Zia Station General Plan Amendment.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests Approval of a General Plan Amendment to Amend the Existing General Plan Future Land Use Classification from Low Density Residential (3 to 7 Dwelling Units Per Acre) to High Density Residential (12 to 29 Dwelling Units Per Acre) for Approximately 13.3 Acres at the Northwest Corner of St. Francis Drive and Zia Road. The Properties are Zoned R-1 (Residential- One Dwelling Unit Per Acre) and are within the South Central Highway Corridor Protection District. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

b. **Case #2020-2914. South Zia Station General Plan Amendment.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests Approval of a General Plan Amendment to Amend the Existing General Plan Future Land Use Classification for Approximately 1.9 Acres from Low Density Residential (3 to 7 Dwelling Units Per Acre) to Transitional Mixed Use at the Southwest Corner of Zia Road and Galisteo Road. The Properties are Zoned R-1 (Residential- One Dwelling Unit Per Acre) and are within the South Central Highway Corridor Protection District. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

c. **Case #2020-2900. Zia Station South Central Highway Corridor Overlay Rezoning.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests a Rezoning to Amend the Boundaries of the South Central Highway Protection Corridor to Exclude Two Properties at the Northwest and Southwest Corners of St. Francis Drive and Zia Road from the Overlay District. The properties are Zoned R-1 (Residential- One Dwelling Unit Per Acre), are within the South Central Highway Corridor Protection District, and Comprise a Total of Approximately 22.7 Acres. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

d. **Case #2020-2899. Zia Station General Commercial Planned Unit Development Rezoning.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests a Rezoning from R-1 (Residential- One Dwelling Unit Per Acre) to C-2 PUD (General Commercial- Planned Unit Development) for Properties Located at the Northwest and Southwest Corners of St. Francis Drive and Zia Road. The Properties are Zoned R-1 (Residential- One Dwelling Unit Per Acre), are within the South Central Highway Corridor Protection District, and Comprise a Total of Approximately 22.7 Acres. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

e. **Case #2020-2901. Zia Station Preliminary Development Plan.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests Preliminary Development Plan Approval for a Mixed-Use Planned Unit Development to be Developed in Two Phases. The Planned Unit Development will be Comprised of Approximately 384 Dwelling Units, 84,000 Square Feet of Office Space, and 36,000 Square Feet of Restaurant/Retail Space at the Northwest and Southwest Corners of St. Francis Drive and Zia Road. The properties are zoned R-1 (Residential- one dwelling unit per acre), are within the South Central Highway Corridor

Protection District, and Comprise a Total of Approximately 22.7 Acres. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

8. **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.

SUMMARY INDEX
Governing Body
April 6, 2021

ITEM	ACTION	PAGE
1. Call to Order	Convened at 6:02 p.m.	1
2. Pledge of Allegiance	Led by Councilor Lindell	1
3. Salute to the State Flag	Led by Councilor Romero-Wirth	1
4. Invocation	Led by Councilor Abeyta	1
5. Roll Call	Quorum Present	1-2
6. Approval of Agenda	Approved as amended	2
7. Public Hearings		
a) Case #2020-2898 North Zia GPA	Discussed	2-25
b) Case #2020-2914 South Zia GPA	Discussed	2-25
c) Case #2020-2900 Zia SCHC Rezone	Discussed	2-25
d) Case #2020-2899 Zia PUD Rezone	Discussed	2-25
e) Case #2020-2901 Zia Dev. Plan	Discussed	2-25
20. Adjournment	Adjourned at 10:30 pm	26

Minutes of the
Special Meeting of the Governing Body
Tuesday, April 6, 2021
Virtual Meeting

1. CALL TO ORDER

A special meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Alan Webber, on Wednesday, April 6, 2021, at approximately 6:02 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 Vigil Coppler.

3. SALUTE TO THE NEW MEXICO FLAG

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

4. INVOCATION

The Invocation was led by Councilor Garcia, who offered a Dalai Lama quote.

Councilor Vigil Coppler gave condolences to the family of Mark Basham (former City Attorney, Probate Judge and had his own law practice. He also worked for Alice King at one time.

Councilor Romero-Wirth also remembered Mark Basham, a longtime friend.

The Governing Body observed a moment of silence for those who have recently died and their grieving families.

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 Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor JoAnne Vigil Coppler
Councilor Renee D. Villarreal

Members Excused
Councilor Signe Lindell

Other Participants Attending Remotely
Jarel LaPan Hill, City Manager
Erin McSherry, City Attorney
Kristine Bustos-Mihelcic, City Clerk
Lee Logston, Case Manager
Sally Paez, Assistant City Attorney
Elias Isaacson, Land Use Director
Noah Berke, Planning Supervisor
Carl Boaz, Council Stenographer

6. APPROVAL OF AGENDA

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

7. PUBLIC HEARINGS

a. **Case #2020-2898. North Zia Station General Plan Amendment.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests Approval of a General Plan Amendment to Amend the Existing General Plan Future Land Use Classification from Low Density Residential (3 to 7 Dwelling Units Per Acre) to High Density Residential (12 to 29 Dwelling Units Per Acre) for Approximately 13.3 Acres at the Northwest Corner of St. Francis Drive and Zia Road. The Properties are Zoned R-1 (Residential- One Dwelling Unit Per Acre) and are within the South Central Highway Corridor Protection District. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

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Ms. Bustos-Mihelcic read the summary captions for these five cases.

Mayor Webber reviewed the process beginning with disclosures, Staff Report, Applicant Presentation, Public Comments, Questions from Governing Body. Written public comments that came in have been provided to Governing Body and posted on City website. The April 8 special meeting is a continuation, but at that time, no public testimony will be taken.

Councilor Garcia noted all Councilors have been inundated with emails from the community and are still receiving them and dismissing them without opening.

Ms. Paez agreed that must continue. Council must rely solely on evidence and testimony at this meeting. We have responded to emails. Thanks for noting that.

Councilor Garcia reiterated to community members that we are not trying to ignore them but can't violate the ex parte rules.

DISCLOSURES

Councilor Garcia said he had no external communications.

Councilor Romero-Wirth reiterated that because this project is in District 2, we received many emails and she stated, for the record, that all emails were forwarded directly to the City Attorney's Office.

Mayor Webber disclosed that a constituent called and wanted to speak with him about land use policy and turned it into an attempt to opine and Mayor Webber ended the call respectfully.

There were no other disclosures, and no one needed to recuse themselves.

STAFF REPORT

Mayor Webber asked Mr. Logston for a report about fifteen minutes long if possible, to be fair with all present.

Lee Logston presented the Staff Report, describing the five cases. He showed the project site and gave the case history. He reported Planning

Commission recommended approval all five, some with conditions of approval.

Issues raised included appropriateness of proposed density, South Central Highway Corridor regulations, impact to traffic, pedestrian safety, the arroyo itself, affordable housing, and general planning update.

Mr. Logston noted the evaluation criteria per Land Use Code. He explained that if the Governing Body denies changing the boundaries of the South Central Highway Corridor, the Governing Body must deny both the C-2 PUD zoning request and the development plan, as detailed in his Staff Memo.

South Central Highway Corridor created in 1986 – 2001- Governing Body created mixed use and 2004 granted General Plan Amendments for these lots. Railroad corridor and finally in 2011 Governing Body approved opening the Railroad station.

In Summary, Mr. Logston said the proposal meets the criteria and the Planning Commission recommended approval of all five cases. Staff also recommends approval of all five cases. Sample motions were in the report.

APPLICANT PRESENTATION

Jenifer Jenkins, 130 Grant Avenue, Suite A was sworn. She appreciated the Council making this time available.

She shared her screen and introduced the project team members.
She showed the 21 acre subject property and pointed out the station platform. Part of the property was once a pumice plant.

The General Plan Amendment is to make this high density residential. Most of south parcel was approved in the General Plan Amendment for mixed general use and she is requesting extending that to the rest of the property.

The Rezone request is from R-1 to C-2 PUD and listed the uses to be allowed: residential, office space and retail/restaurant. Current zoning is default R-1 with SC-1 across St. Francis – Office, hotel (City's affordable housing location).

She described the context of zones as a "common pattern" and pointed out where she lived nearby.

She reviewed a history timeline as the groundwork for this proposal. Zia Station was envisioned in 2005. In 2009, planning was paused for development of places around including relocation of the tracks. There

were interactions with neighbors on what could be created here. Improvements and rail runner service were accomplished in 2016 and she was contacted to being planning for this project. JenkinsGavin shared ideas as they developed them. They did the TIA and in 2020 and held an ENN.

At the ENN they considered responses for density, multi-modal transportation, connectivity, visibility, streetscapes, landscape design, vehicle circulation and sustainability. As she showed the proposed site plan, she described the surroundings of the site and described how they would transition from existing patterns. Along Galisteo is a series of townhomes that fit with townhomes across the street, with higher buildings and commercial uses nearer to St. Francis.

On the north side would be townhomes and open spaces and to the west multi-family dwellings and on south of Zia, mixed use with a realigned Galisteo Road to address existing traffic congestion. It will have a parking structure to minimize on-street parking. A central plaza for the opportunity to have events outdoors. S City bus stop is now across from Zia and they are negotiating an internal bus stop.

She showed planned the new and existing sidewalk network with a new signalized pedestrian crossing at relocated Galisteo and Zia for a safe crossing and access to Candelero Park and significant sidewalk improvements on Zia.

She shared a diagram on heights with buildings at St. Francis stepped down to appear as a single-story height (17') and described the transition they wanted to achieve. She said the 3-story top is about same elevation as the top of Albertsons.

Ms. Jenkins then went to criteria for the General Plan Amendment and described each criterion. She stated that the City established objectives that don't align with the South Central Highway Corridor. They are asking to amend the General Plan and showed the three undeveloped areas. The Amendment would comply with a majority for the highway corridor criteria.

She showed zoning standards for C-2 and South Central Highway Corridor compliance at Zia Station.

Ms. Jenkins said in their Affordable Housing Program they worked closely with Director Ladd to develop in accordance with Fair Market Rents. She showed how Zia Station rates were below the SFHP Maximum Rent rates.

She turned to Traffic issues and mentioned the TIA that was performed because of congestion at Zia and St. Francis. She predicted, with their road designs, there will be no congestion at that intersection by pulling Galisteo

further to the west. She described the proposed signalized pedestrian crossing of Zia and showed how their design reduces congestion by 80%.

She mentioned the Community Outreach done in the summer of 2019 with neighborhood meetings and ENNs. She gave responses that addressed the neighborhood's concerns.

Ms. Jenkins concluded the presentation at 7:19.

PUBLIC COMMENTS

Ms. Paez pointed out the Governing Body might want to ask questions of them and asked speakers to remain present in case of such questions.

Joan Conrow, 2521 Calle de Rincon Anita, was sworn and said Santa Fe needs more housing but needs houses. She felt the market rate was out of reach. She said she wrote out her testimony and submitted but had to submit it in pieces for word limits imposed. She had no idea if the Governing Body received it. She protested that citizens are very limited (two minutes each) while Ms. Jenkins is not limited. She gets much more time, get, and gets to continue the dialogue on Thursday while citizens do not. This is what makes people cynical about government. She hoped the Councilors actually received what she sent and read it.

Councilor Garcia asked if members of the public were allowed to share their screens.

Ms. Paez said the appeal rules do allow display items to be included in the packet if submitted ten days in advance but didn't know about displays at the meeting by the public. It probably would be at the Chair's discretion.

Councilor Garcia wanted us to keep the spirit of what was allowed in an in-person meeting which means speakers should be able to share the screen.

Brett Frauenglass, 2300 Calle Luminoso, was sworn and said his house was the closest house to the southern portion of the development and he had purchased it with the hope this project would go forward in 2009. He supported it and has been following it. The current iteration has gone a long way to solving the transportation problem. He had some minor quibbles with the Galisteo proposal but, overall, he believed it will benefit his neighborhood and seeing young families moving into those town houses. He mentioned some benefits, including a fantastic bike trail. He was happy to see affordable housing in the neighborhood and couldn't be more excited to see it go forward.

Michael Barrio, 501 Colona Street, E. D. of the Santa Fe Housing Coalition, was sworn. He said it is important to encourage projects on housing - always working to seek common ground. In that spirit, he supported this project.

Betty Beacham, 1896 Camino del Pabilo, was sworn. She thanked the Governing Body for all the work they do and in looking at this proposal. Ms. Jenkins said it all and she didn't see how anyone could be opposed. This will be a new urban center for this part of town that is sorely needed. Coming into town here is not an exciting entrance and what is proposed by the developers who are reputable and love Santa Fe will help it be more attractive. What they have done sort of finishes off what is needed for the Zia Station. She has lived in her townhouse here for a long time. She supports the project as an answer to the area and will bring vibrancy to Zia Station and be a great benefit to the community.

Richard Wood, 2197 Lustre Court, retired mechanical engineer, daily commuter in the area for 25 years, was sworn. He said, with encouragement of the Planning Staff, he prepared a report and submitted it in early January, and he was assured it would be studied. But he had no report on it and the Planning Commission seemed to know nothing about it. So, he was left with the right to say, "I told you so." He commended them for the solution on eastbound traffic, but not for vehicles coming back and turning onto Zia. They totally ignored pedestrian effects and Rail Runner crossing and stops. The no left turn solution is the least costly, but it will result in many U-turns.

Cindy Gregory, [no address given] was sworn. She had lawyer concerns and urged all to review the alarming statistics she submitted to the Planning Commission. That intersection is the most dangerous one in the City, State, and Nation. Lots of safety concerns were ignored. We are a destination City because of Santa Fe Style. Much has been written about our earthy ambience and adobe architecture. This development is out of place, out of scale, and worse, it follows the mindless philosophy that if there is an intersection with a lot of cars, it must be a great place for a Walmart. Don't let this happen. With a few minor tweaks, it would work. Please honor the Highway Corridor protection exactly for this purpose. We can do better.

Cheryl Gardopee,1880 Brillante Lane, was sworn and addressed the process used throughout this endeavor. Our members sought to submit information and a lot today went to City Attorney, but she echoed Joan Conrow's comment that our access is extremely different than the developer portrayed. The TIA by Bohannon doesn't seem to be like others done by engineers in our community. Inquire of people who know about traffic in the effort to make this look shiny and bright. We are trading in South Central Highway Corridor from overdevelopment in exchanged for 39 units used for 10 years at affordable housing rates and excited for the City sponsorship of

affordable housing center near Albertsons – but don't want to add 7,900 cars per day at this intersection and we have many reasons to doubt.

Tai Bixby, 55 Primera, Santa Fe, two blocks from the site. He was in favor of the project. It has all the components needed. He was grateful for local developers like Santa Fe Brown, Merritt Brown, to take it to fruition. We have a housing situation and as realtors have said, the Association of Realtors produced a study in December that showed our deficit at thousands of units. We have years to go before we meet the housing needs. It would be nice to have people who work here to live here. The Planning Staff did an outstanding job following the Code. He also thanked the Governing Body and said they do a good job for the City. "I'm glad to live here."

Ed Aku Oppenheimer, [no address given]. As President of the Candlelight Neighborhood Association. he had intended to point out five reasons why the City's review process requires this case to be delayed tonight. He chose two of them to present. The Planning Commission appears to have violated the City Code, Chapter 14 and the 2018 State Statute, Chapter 3-21-5 which directs that municipalities must make zoning decisions throughout the State. Number two, on March 25th, he emailed questions to the Governing Body on the legality of the February 18 Planning Commission hearing proceedings. To date, the Association has not received any kind of acknowledgment of the questions. The letter now has 56 cosigners, and it will remain open for more. After this meeting, he would send the facts on which the questions were based, with the list of cosigners for consideration 48 hours before the Governing Body final vote. He said he was going to comment on the other issues but said the traffic issues raised by this proposal were not necessarily resolved by the planned mitigation measures proposed. "The study states on page six the north parcel is expected to develop first, with the south parcel to follow. It is anticipated that a follow-up traffic study will be prepared when the south parcel is developed, to determine if the mitigation presented herein continues to result in an acceptable Level Of Service." So the developers' own Commission study says, "we don't know if this is going to work and you are going to need to revisit it with a new traffic study before you start Phase 2." He added there were many other issues like this but he did not have the time, so he urged the Governing Body to respond to the issues of City process and other questions they had heard tonight before approving the Zia Station proposal.

Alan Richardson, 2203 Brilliante Street, was sworn, and said he did have prepared comments but not enough time for them. He had 25 years' experience on site location and worked with the New Mexico Department of Economic Development as a Director, Deputy Secretary and Secretary with involvement in a host of projects around the State and their impact studies. In response to Ms. Jenkins' presentation, he asked how this can be a

walkable community when it sits at one of the busiest intersections in Santa Fe and highway, divided by a four-lane road with a traffic count of 17,100 cars daily and a projection of generation another 7,900 cars daily, bringing the total to 25,000 cars daily to that area. It makes absolutely no sense how it can be a walkable community, especially with the Rail Runner making 18 passes per day through that walkable community. Secondly, Ms. Jenkins gave just one point of view, such as the sidewalks that would extend and improved on Zia Road as it relates only to the development and no further. She talked about the views looking east and doesn't talk about views to the west. The Rail Corridor Study in 2008 does not conform to any standards for rail transit systems in the planning documents for the project.

Margaret Marshall, 2172 Ojo Court, and member of the Candlelight Neighborhood Association Board was sworn. Regarding this development, she asked the Governing Body to please not remove corridor protections or requested General Plan Amendments or zoning changes. She said she was not opposed to development of the property but was opposed to this Zia Station development as proposed. She believed the density was not appropriate. She said the City ordinances exist for a reason and this proposal must adhere to those ordinances and their intent to keep Santa Fe as a unique and special place. The Links does not preclude affordable housing. We can still have residents. No variances should be granted since other developers have complied with the standards, corridor protections, etc. In her opinion, "greed is written very large here." She urged the Governing Body to not follow the Planning Commission to twist and distort our ordinances. Please stand your ground and preserve our wonderful City.

Daniel Werwath, 1611 Camino Porvenir, was sworn. He said he was speaking in his professional capacity and as Project Director of Santa Fe Interfaith Housing and as Interim Director of Santa Fe Housing Trust. He strongly supported the provision of affordable units in this market rate project. This is the first time it has been proposed, using the comparative, using the inclusionary zoning ordinance. The housing problem the City is in now was not inevitable. It is the product of lack of long-term planning and overlay districts, and ultimately, the product of little decisions, like denying affordable projects on Siringo Road, and stopping other affordable projects as was done a few years ago. Those all contribute to the situation we are in now. There have been decisions made based on just a couple of people, rather than the interests of the whole community. It is critical to use macro planning for housing and affordable housing in the City. The Code has not been updated since rail commuter service started. The City is behind the bar and should not cater to a small group of people. He understood the fear of change. But we need housing but affordable housing and market rate housing in this development.

Robert Morlino, 2909 Plazuela Cantata, was sworn. He urged the Governing Body to approve this proposal. He was on the Leadership Team of the Santa Fe Housing Action Coalition and pointed out that infill sometimes results in urban sprawl which is not sustainable or good for our environment. He wanted to acknowledge the thousands not here such as those who had to move away and those working families working here and living elsewhere. They are the ones who need it most and are not represented here. Some of the voice for those working people have been shouted over and not heard. The people who are in favor are disenfranchised. He asked everyone to weigh heavily the opinion of the experts. They remain professional and levelheaded, but they worked hard in the project and their opinions deserve to be weighed heavily.

Shawn Evans, 1121 North Luna Circle, was sworn. He urged the Governing Body to approve this. As an architect, he strongly approved. "We can provide affordable housing but first see the mountains of data. We do need vision of the mountains, but we need adjustments to view corridors in the few places for affordable housing. The Zia project is a smart and balanced development, located where it can minimize its overall impact, perhaps most importantly with sustainability and carbon impact by being adjacent to transit. Our City's restrictions on density, height, and style prevent us from equitable growth. We must make sure we work harder to prevent culture erasure when we prevent erasure of view. Don't penalize this project the City has not fulfilled its obligation for long-term planning. Approve the project and then let's get to work on balance of planning and development. We can preserve culture and character while promoting sustainability, dignity, and equality, while preventing gentrification. Let's do all of this.

Anne Watkins, 2138 Candelero, was sworn. She thanked the Governing Body and the Planning Division for all the hard work here. She supported the Zia Station Development Proposal and believed the major concerns of the neighborhood regarding traffic, pedestrian access, and safety have been creatively addressed with a fair amount of affordable housing. Those who work with Jennifer Jenkins on these and other issues, have appreciated her willingness to pursue innovative developments that are part of this development plan. Ms. Jenkins also agreed to form a design committee.
Ms. Watkins also wanted to speak to TOD development. She participated in a national committee that also included Australia and New Zealand to revitalize cities with TOD development in their downtowns. The Biden Administration is now pursuing investment in transit as one element to combat climate change. The Administration offers that same opportunity to Santa Fe and she urged the Governing Body to support it.

Marlene Scally, 2132 Candelero Street, was sworn. She expressed two concerns – the TIA was seriously incomplete. The more than a hundred homes on Candelero have people who face danger exiting Candelero left

to Zia to St Francis to go to work at peak hours. The study didn't consider Candelero left turns to Zia. Candelero has two entrance/exits and one is on a curve, limiting the ability of the driver to see what traffic is coming, in order to make the left-hand turn. And at the closer exit, people are faced with trying to get across three lanes of traffic that are backed up at St. Francis. She asked the TIA to be extended to include that intersection that puts the entire Candelario neighborhood in danger turning left onto Zia at peak hours.

Randall Bell, 2991 Viaje Pavo Real, was sworn. He asked about the procedure for submission of written comments prior to the April 8 hearing. Many people have had difficulty doing that, and he understood there would be no public input at that meeting. He asked if people could submit comments between now and that meeting.

Ms. Paez said the notice has provided that there would not be more, due to the volume of information. The logic was to make sure the decision makers could evaluate everything from all comments submitted for this evening on the plans for development. The written comments were accepted until 3 pm today. Those are all in the record as well as comments made at the Planning Commission meeting.

Mr. Bell objected since so many had not been able to submit them today. Also, there is almost endless time for the Developer to make extensive presentations and the public has been really constrained. It is counter to due process rights. He was speaking on behalf of the Old Santa Fe Association, which has hundreds of members. As OSFA President, the Association strongly supports the Candlelight Neighborhood Association, who expressed several concerns. There is not time for presenting all of them but especially is the issue of the South Central Highway Corridor protection. Some people have intimated it is out of date. Those protections were created after years of considering the concerns of residents. There are other places where higher buildings could be built. The corridors have never been violated and this would be a terrible precedent to endorse. Without that protection variance, they would have to pay attention to the restrictions.

He said Ms. Jenkins emphasized the margin was razor thin and the developer wouldn't make enough money without it. She was intimating that if we did not get a variance from that ordinance, they would not be able to build it without the requested density and height. That presumption is based on facts not in evidence and we don't know what those are. The City cannot decide based on a representation of the developer's alleged profitability.

Elizabeth West, 318 Sena Street, was sworn. She said, like many others, she drives by this area often. She was very disturbed about the willingness

to approach an ordinance that was worked on so thoroughly over the years. That didn't mean she thought there should be no changes. –But she didn't like this approach and wished a moderation could occur. She had ideas of the Territorial design. She might like to be on the design committee. She would like brown and softer edges. The pushback is helpful. Some of the best parts of public involvement in looking at things benefits us in two ways. It is good to be heard. And it benefits the developer's vision with changes that make it better. This pushback is crucial, and she agreed with many people about the process. She was in favor of the important business around affordable housing. She loved the small inexpensive houses. But what happens after ten years? She suggested the Governing Body ask the developer to extend that time for affordable rates.

Miles Conway, 495 NM 592, was sworn. He thanked the Governing Body for hearing all the comments. He echoed what the person ahead of him said on the planning process and hoped it is approved. Lots of care went into this and, speaking on behalf of Santa Fe Homebuilders, said the boom is going on now but won't go on forever. The Association will be involved if this project is approved. Lots of local people are involved. It is a beautiful project. He loved how residential and commercial were intermingled here. "We are building neighborhoods. Thanks for hearing me and the decisions you make. It is fun to see our community building and developing."

Barbara Levin, 2200 Ardor Street, was sworn. She said she was formerly president of the Candlelight Neighborhood Association. While many aspects of the proposal had concerned her, the process is not good. The worst is the waiver of the South Central Highway Corridor protection. It would be a shame to grant that ordinance waiver. She asked the Councilors to please drive around Santa Fe and see that every corner has for-lease signs on businesses. She protested spot ordinance enforcement for things such as too much density. She requested the Governing Body disapprove all of it at this moment.

Grant Alexander, 2327 Calle Tranquilo, in the Sol y Lomas neighborhood. He identified himself as a traffic engineer and architect and said he drives through the area daily. He said the density in the urban core is what makes Santa Fe unique. This project proposes to add density to an area that doesn't have any. The traffic is not great at this intersection and won't get improved overnight. And the city is very unlikely to improve it on its own. The way the city would improve the Level Of Service there is when the City leverages a new development to get private funds to help. That is exactly what is happening here. This is a real benefit to the neighborhood, and he wholeheartedly supports it.

Sterling Grogan, 2138 Candelero Street, was sworn. He asked that the City Council adopt, and condition approve the Zia Station proposal on a modified

version of condition 12, of the Staff Report to the Planning Commission, to add text that says, “The City will develop and provide to the Applicant a design for remediation of the natural gas pipeline crossing immediately upstream of Zia Station property. The applicant will work voluntarily with the City to implement the City design, subject to monitoring by the City.” The Applicant, thanks to Ms. Jenkins’ help, has committed to the neighborhood, to work with the City to remediate the natural gas pipeline crossing, because that is the cause of erosion that the original language of condition 12 was intended to address. Ms. Jenkins had mentioned it in her presentation as “upgrading of the arroyo.” The Applicant, with the modification, could prevent further erosion because the arroyo has two undersized culverts and any money spent on bank stabilization could be wasted when the inevitable next large runoff occurs.

Nathan Thomas, 2194 Lustre Court, was sworn. He said he supported development and mixed use. and agreed Santa Fe needs more family housing. But he asked how more apartments provide more family housing. The only way with this developer is to get special treatment and eliminating appropriate setbacks from Zia Road which she never mentions. She only mentions setbacks from St. Francis. And this brings downtown traffic to an existing R-7 neighborhood. Why does this need a parking garage? He didn’t understand it. He asked the Governing Body to look at the Planning Commission video. Ms. Jenkins said eliminating 3-story from the project would eliminate affordable housing. He saw that as leveraging affordable housing and throwing out the ordinances to make this happen.

Michele Chisholm, 1915 Camino Lumbre, was sworn. She said when Ms. Jenkins met with the Commissioners on February 18, she supplied two pieces of misinformation to the Board. She showed a map that we could no longer make a left turn onto Zia from Galisteo, and that traffic would be rerouted to Chaparral Elementary, which she said was the only way for the whole of Galisteo to get to the school. That was not true. The shortest route to Chaparral Elementary is straight through Camino Lumbre. Camino Lumbre already has large scissors in them, but the City will not let them, despite some neighbors calling the City about these. Camino Lumbre lacks the infrastructure to accommodate the increased traffic. Forcing this residential street to be a major thoroughfare by rerouting traffic through it will only make a bad situation worse. Ms. Jenkins also stated that the impact on Galisteo – that on Galisteo and Rodeo, there was no impact is also false. That intersection is already dangerous as it stands, it is dangerous with fast traffic and a blind curve. We need to have crosswalks and flashing crosswalks at Galisteo at Camino Lumbre and at Galisteo and Rodeo Road. Camino Lumbre will need to be resurfaced to handle the added traffic.

Eric Wolf, 2959 Viaje Pavo Real, was sworn. He said he drives through the intersection twice daily most days. It is dangerous and the site of many car crashes and people take their life in their hands when crossing Zia Road. He was concerned the City will be sued for the poor design. He thought the TIA should be done by a third party. He thought the design will cause traffic chaos. He also questioned whether this was building affordable housing for people in Santa Fe. He recently drove through the parking lot of one of the new apartment developments at Rodeo Road and the railroad tracks. About 25% of the cars had out-of-state license plates, some of them as far away as South Carolina and Washington. He believed the density of the project was the problem. Increased density would create increased traffic problems and make the area less livable. A reasonable project here is a good idea and most of the neighbors would approve such a project, but not one that is so dense.

Cristina Gonzales, 1873 Gonzales Street, was sworn. She said she is an artist and educator, working in the public schools and mother to two. She was in support of this development. She commuted for 15 years to be able to work here. In her opinion, the need for housing far outweighs her desire for a beautiful view. She would miss the mature trees and running her dog in that open space. But housing is more important. Many people she works with could have used ten years of affordable housing getting a start and those following her who wanted a place to live.

Keli Hedin, 2323 Calle Luminoso, was sworn. She asked that Commissioner Sategna's and Commissioner Clow's opposition at the Planning Commission be read concerning the boundaries of the South-Central Highway Corridor. She read their explanations to the Governing Body. The ordinance is to maintain a clear sense of openness. How can that ordinance become outdated? She was not convinced the legality of this when we allow one developer to be out of the boundary of the corridor. This should be done through the General Plan and a series of meetings to which the public is invited to participate. These two corridors encompass a lot of property, both residential and commercial, and what we feel, as the gateways to town, should look like. An approval of this project sets a precedent for all other such projects, circumventing the ordinance.

Bill Roth, 1713A Montaño Street, was sworn. He is a longtime resident and homebuilder, on the Interfaith Housing Board with Daniel Werwath so he had a strong concern for affordable housing. He said this is a huge project and has lots of moving parts. This community feedback helps the developer fine tune it. Overall, it needs to go forward, and he liked the architectural mixed style and high-density mix. And downtown has that architectural mix. Many people moving her brought their architectural style. To see three of our finest architects involved is great. He was in support.

Stefanie Beninato, P. O. Box 1601, was sworn. She asked the Governing Body to look at the master plan as a whole before acting on this application. Allowing this type of development. It sets a really bad precedent in ignoring the ordinance. She asked who, making $35,000, could afford to live in a studio in this development. She asked how much percentage was affordable in each of those. She supported lower heights for commercial with parking underground to reduce the heights. She said the U turns proposed are not possible. She could barely make it with those dimensions. She would like to see the financials to know how much margin is there for the 370 units and 49 affordable housing units. At the Planning Commission, they said the parking was too small but now the Applicant says they have ample parking. She did not support approval.

Madeleine Carey, 1674 Camino Cruz Blanca, was sworn. She thanked Council and Staff. She gave emphatic support to allow the project to continue. She noted there are many rules and regulations to restrict growth only they do so just for the privileged few. People, not buildings make neighborhoods in cities with dynamic living. The housing crisis here is one of our nation's. It was brought on by the aesthetic sense of openness over needs for housing in the City. Her value is as a person who was born to a family that used to live here. She wants to preserve equality for racially and economically diverse people to help us live in Santa Fe. This project will help us do that. Over the last five years, she probably went 10,000 miles over Santa Fe trails with about a thousand on the Rail Trail that runs through the proposed development. It is dangerous to be a pedestrian anywhere in our City mostly from bad or hostile drivers. This proposed entrance will be far to superior to every other entrance along St. Francis and the Rail Trail.

Pat Lillis, 2119 Conejo Drive, was sworn. She was also a board member of the Neighborhood Network. Some Santa Fe residents are protected from development by covenants, and zoning protects the rest of us. Neighborhoods and residents depend on the zoning. When property is sold, zoning helps protect the investment and quality of life. Until last the few years homeowners did not think zoning would be a threat to them. Corridors were set up for same reason – protection for the City's residents. Why do residents have to spend so much time and money to defend those zoned neighborhoods? Why does the City have to waste so much money when this project should be built in a properly zoned location? Santa Fe needs to support neighborhoods and the citizens who live in them. This area deserves the same respect. Please do not throw out corridor protections or zoning, in favor of a development. This is a gamble that the City would favor a developer over long-term residents. Please deny the zoning changes.

Rick Martinez, 735 Mesilla Road, was sworn. He said he was here to state the problems from the public. He had 473 words and couldn't get it called in, so he sent the Councilors an email. He didn't think the City Attorney was

right to deny us the right to say what we have to say. He disagreed and couldn't get his comments and should accept the email he just sent you. He spoke with the Land Use Director who said they are not doing away with the ordinance. This is setting a bad precedent. The owner bought the property knowing it was in the corridor protection district. In the future there is a 7-story building coming to you. The Governing Body is just opening the gates for that by approving this corridor change. It is still going to be a kiss and ride railroad stop and not a place for residents to park a car. He hoped the Governing Body could accept the comments he sent them.

Deanna Einspahr, [address garbled], was sworn. She said the South Central Highway Corridor was adopted through the proper public policy process, involving land use planning, much public input, and policy decision making. It is absolutely abhorrent that its requirements can be waived in a simple Planning Commission hearing by five people and confirmed by a vote of 5 Councilors plus Mayor in a very limited public access hearing. We know that laws are often waived or applied lightly to the wealthy and the connected. The Developer has said that it was his bottom line to waive the SCHC in order that he could provide a tiny amount of affordable housing. She wished she had heard more outrage at the Planning Commission meeting where such a paltry offering for a short period of time was all that was achieved. The solution for affordable housing must be solved by building affordable housing. That notion that Santa Fe can build enough housing to bring down prices in the face of infinite demand is ludicrous. That is Economics 101. The solution requires creativity not yet seen. She suggested the City reestablish a Planning Department for Land Use. The City doesn't have that now. Another is to find ways to remove speculation and profit motives out of housing planners. With imagination, the solutions are endless, but this case is not the solution, and she urged a no vote.

William Bragg, 1871 Brillante Lane, was sworn. He said it has been suggested the South Central Highway Corridor protection plan is no longer relevant or important. To him, it is just the opposite. It is more relevant now than ever. It is there to protect the appearance of this entrance. The construction timeline of 7-10 years was the estimate. Who wants to live at a construction site for ten years? Does anyone want to live at it for 7-10 years? He proposed the time of construction be limited to no more than 3 years. Please consider a reasonable time limit.

Christine Malcolm, 1874 Candelero Street, was sworn. She was a Candlelight Neighborhood Association board member and 17-year resident of this neighborhood. She would be very excited to see a moderately sized community and not another shopping center. This development should comply with the South Central Highway Corridor and ordinance. She said the Hawk pedestrian crossing is more of a traffic hazard, dangerous for motorists and, in her letter, she explained why. There is no way to make it

a safe crossing in this area with too many U-turns, etc. We do need affordable housing and not this, which kicks affordable housing down the road. If South Central Highway Corridor is removed, she wondered if every other property owner on Zia could do such a development. She did not approve of this plan and urged the Governing Body to deny it.

R.G. Wakeland, 2345 Calle Luminoso, was sworn. She said there was an error in process. She already submitted her written objection as a problem with no solution. They already admitted the traffic problem could only be solved with relocation of Galisteo. However, moving of Galisteo Road would not be allowed as proposed because the Governing Body cannot approve a problem or a contingency. Ostensibly, there was no evidence for the following cross street of the developers. There was an error in the previous South Central Highway Corridor and in the status quo since the designation, significantly enough to justify the change. There is currently a shortage of apartments and housing units which they proposed. The South Central Highway Corridor cannot be changed through zoning action but through General Plan Amendment. Her conclusion was that the project could not be approved.

Antoinette Shook, 2120 Candelero Street, and secretary of the CNA, was sworn. She said she found a few underhanded moves. Ms. Jenkins stated at the ENN meeting that affordable housing would be 60% of units for five years. However, at the Planning Commission meeting in February, the submitted plan was changed to ten years. She asked if that was legal. She agreed with Nathan Thomas regarding Ms. Jenkin's statement in February that if a 3-story development were not approved, there would eliminate their affordable housing. If so, she asked why they would build more apartments and not more houses. She was also very skeptical of views of the three stories that only 17' would be seen from St. Francis. Her home backs up to the proposed project and St. Francis was level, out her back door. The corridor was not antiquated. It was put in place by people who understand how green space and infill would blind the eyes of the people. Her plan, with changes in zoning and changes in traffic patterns is irresponsible and dangerous. She urged a vote of no.

Joe Abbatacola, 1881 Brillante Lane, was sworn. He agreed with other comments made about the public being constrained. He would have loved to share some slides. As a former licensed realtor who worked on a successful infill project and believed in smart growth. This was not smart with such high density, so close to St. Francis. It would be 1.5 times as large as Candlelight right at one of the busiest intersections in Santa Fe and a train station. It is a huge mistake. The developer estimated there would be added 2.5 million more vehicles annually. There is a reason why this has not previously been approved as it was being developed over a twenty-year period. It is far too dense for this location and will make this area more

dangerous, resulting in more accidents and injuries and potential loss of life. The claim that with this project, traffic problems will go away is overpromising and underdelivering. He is an instructor for driver safety and served on the City's BTAC and worked in fire and emergency management and law enforcement. He had responded to many multi-vehicle crashes. This design to exit the development, requiring vehicles to make a U-turn to go the opposite way. At peak times, vehicles would have to go further on Zia, since traffic would be backed up. Zia is a high-speed road with blind curves. In his professional opinion, the City will see accidents occurring at Zia and Candelero and other Zia intersections there, as well as Zia and St. Francis. Ask yourself what the City needs. With other commercial space available, is this commercial space really needed? And at what cost? This is a dangerous precedent. Please follow the South Central Highway Corridor protection district.

Nicolas Bosch, 1868 Camino del Pabilo, was sworn. He said he was a new resident here. He totally understood the need for affordable housing. He was fortunate to be able to purchase his first home here. He couldn't tell how many times he has almost had an accident. He has a strong planning background. He had not read the TIA report but some comments from it sounded like it was incomplete and didn't factor in pedestrians or rail traffic. If that is the case, it is concern for him moving forward with only partial data. He liked the idea of affordable housing but just done right for the safety of the neighborhood.

Rachel Thompson, living near the Rodeo, was sworn. She supported affordable housing and wanted this development and she thought people living here wanted affordable housing. She thought it a shame that inclusionary zoning put people in opposition. she gathered that what is missing in Santa Fe is long-term planning and she felt Midtown is sucking out any such planning. She bicycles a lot and noted that while crossing Zia, a cyclist was killed. Where they propose the signal crossing, people could come over the hill to an unmarked crosswalk. In uncontrolled areas with crosswalks more accidents with no cross walk. So she worried it will be extremely unsafe for cyclist and pedestrian. She badly wanted this housing, but it needs to come after we find out where affordable housing should be.

Ed Romero, 3456 Via Magdalene, was sworn. He said, as Santa Fe Civic Housing Authority Director, he supported the project providing affordable housing in a desirable area of town that his clients would love to live in. He said he could talk about our waiting list which is not open for four years and we have 200 families waiting with about 20-40 turning over each year. So they are in desperate need of affordable units. He noted he has seen many projects for that area but most of them cop out with fee in lieu and this is the only one that provides affordable housing.

Anthony Guida, 1711 Second Street, was sworn. As an architect and sustainability expert, he knew we are in a climate emergency – literally of life or death of our planet. The notion that we continue to protect automobile-centric low density planning with such zoning and the most disastrous thing of a highway corridor, considering this emergency, he would hope for a denser high-rise development. We need to do this type of development at higher densities, especially with TOD in this part of town. The only way Santa Fe can get the things wanted as a walkable City in a sustainable and carbon neutral way, is with denser and higher rise developments. The City can grant even more densities for developers, in exchange for developments people want. He would prefer we not water it down and approve this positive project at this density at the very least.

Sheela Hewitt, 1917 Camino Lumbre, was sworn. She said her greatest concern is for safety. She didn't know if many here have driven Zia to St. Francis on an icy day. The vehicles go fast to make it up to St. Francis. But that is where the crosswalk is to be located. If you have ever made a left turn on Galisteo, you have a good sight before you. But with Galisteo realigned, you would no longer have that. There has not been sufficient thought for that in the neighborhood. There is no rush for this. Make your decision about the South Central Highway Corridor but the plan needs much more research with its many dangerous situations.

Michael Margolis, 2154 Candelero Street, and resident of Candlelight Neighborhood Association for 30 years, was sworn. He said the Developer is using the Zia Station as an excuse for removal of the protective corridor. He didn't think the Planning Commission caught any of that. It is not contingent on any development around it. He was the 4th person to mention at what Mr. Jenkins said at the Planning Commission that without 3 stories, no affordable housing. The Commissioners didn't ask for proof but said okay. This is not about a mountain view corridor but following the overlay that protect our values. Affordable housing as a passionate ideology is wonderful but it is not that you accomplish but how you accomplish it. Please don't approve this project.

There were no other members of the Public to comment.

QUESTIONS FROM THE GOVERNING BODY

Councilor Garcia had questions first for Cindy Gregory. She had mentioned that a few tweaks were needed and asked her what those would be.

Ms. Gregory said, "We want the development and I want more neighbors in the development, but in the two-story limitation. I consider that a minor tweak. The other thing would be to honor affordable housing. At the

Planning Commission they said they would not voluntarily provide affordable housing. I would suggest the City order that."

Councilor Garcia thanked her. His next question was for Alan Richardson. He thanked Mr. Richardson for his testimony about the corridor study and asked him to clarify that.

Mr. Richardson said he was also with the NMDOT, Rail and Transit Division and he was involved with the team bringing the Rail Runner to Santa Fe. The study had very little technical input to the study itself. They talked about the number of locations for the Rail Runner stops. That would not happen. Nowhere in the study did it indicate any of those sites were studied. The requirements were quite heavy. The study was superficial and never was approved by the City. It is full of deficiencies, but it was used by the Developer for the back-up on that issue.

Councilor Garcia's last question was for Ed Oppenheimer. He asked if Mr. Oppenheimer was the President of Candlelight Neighborhood Association.

Mr. Oppenheimer said he was.

Councilor Garcia asked him if the proposal addresses the Candlelight Neighborhood Association concerns.

Mr. Oppenheimer said the only concession given by the developer that he was aware of was to propose 3-story buildings in Phase 1 rather than 4-story. But if C-2 PUD zoning were granted, it would open the door not only for a refiling for Phase 1 in a few months to increase height and density yet again and in the future, open the rest of the corridor in the City to lawsuits because of the precedent being set with this. So it would discard all requirements in the General Plan Amendment changes and Corridor protection and affordable housing regulations. That has never been compromised before. There has also been since, the Developer working with a small group in the Candlelight neighborhood who support this and giving the thoughts and perceptions of the CNA with the developer. He noted in some of the comments, the extensive driver training to provide pedestrian safety. That was a compromise, not worked out with CNA but a few neighbors who warned the developer that they needed to give a little on this. We have not had a chance to address how poor a solution this is. We were shut out in so many ways at the Planning Commission meetings and makes us believe we have had no opportunity to respond on it. They did see in response, a minor change on Territorial style which was a new roll out. It is not even an answer to our concerns. We have tried to work with the Developer for over a year to get a meaningful dialogue.

Councilor Romero-Wirth asked Richard Wood, both from reading the comments made at the Planning Commission and here, that he had done a traffic study, when it was finished, if he was able to share it with the Developer at the ENN meeting and what reaction he got from that study.

Mr. Wood said he was encouraged at the time by City Staff to write it up. He wrote it up in early January and submitted it to the Planning Commission for the packet for the Planning Commission meeting.

Councilor Romero-Wirth asked if he reached out with it directly to the developer.

Mr. Wood said he had not.

Councilor Romero-Wirth wanted to ask a question for Brett Frauenglass who was not present at that time but was later.

Councilor Romero-Wirth asked Mr. Oppenheimer about the small group working with the developer and curious about his own interactions with the Developer and the Developers' response.

Mr. Oppenheimer said he has reached out to JenkinsGavin. And the extra ENN was reluctantly given to the CNA after he agreed to personally sponsor the Zoom meeting, which he did, to get some real answers.

Councilor Romero-Wirth asked how the small group came about.

Mr. Oppenheimer said they worked separately to get an address list to work together on their own. Their efforts were not successful, so we met to combine the mailing list and did so. But then these other parties considered the mailing list theirs. But it was only for use by the Candlelight Neighborhood Association Board. They wanted to use it to promote their proposal and communications broke down at that point. They are still part of our Google group and can host anything. But they chose to be nonexplicit about what they were doing except when they challenge the Board to provide some information to pass on to the developer. They have made is a one-way street. We are trying to find a way to meet with the Developer.

Councilor Romero-Wirth said they seem to have access to the Developer, but not the Board.

Mr. Oppenheimer said that was correct. The Board wants it sent back to the Developer for some kind of review and cannot do that without the Governing Body's sanction. He suggested she could speak with Anne Watkins or Sterling Grogan.

Councilor Romero-Wirth asked Ms. Watkins how she would characterize the neighborhood's reaction.

Ms. Watkins said she had a different take on what is going on. From early on, a group in the Candlelight Neighborhood Association was opposed but now said they were not opposed but that there were still problems. The rest of the Board members started out not opposed but wanted to work more closely with the Developer, but simply have not been included in the discussions; have not been involved in negotiations and constituted several times but did not communicate with the rest of us very well.

Ms. Watkins said she has talked with Ms. Jenkins about concerns that she felt needed to be addressed – pedestrians and affordable housing. "We are not a separate group, but several people are not in lockstep with the current Board. I helped put together the mailing list. My husband and I walked the whole north part to get people to sign up for the mailing list and was told it would happen on the south side, but it did not happen. So I was willing to go to the south area but was not allowed to see the mailing list. Some people dropped out entirely. I haven't tried to negotiate with Ms. Jenkins."

Councilor Romero-Wirth would it be possible if we deputized Mr. Oppenheimer and his spokespeople, to come together to work with a Developer's representative to have conversation on the issues and work for more peace.

Ms. Watkins said she had backed off because acrimony is not something she wanted to deal with.

Councilor Romero-Wirth asked Mr. Frauenglass about his quibbles with Galisteo.

Mr. Frauenglass said people use it as short cut at high speed. Right in front of my house, it has 9' lanes and some places are 14' lanes. He knew it was not the developer who needed to solve all the problems, but this was one that people will continue to speed through. He has had people in his front yard several times because of speeding through there.

Councilor Cassutt-Sanchez asked Mr. Wood about a 25-year traffic study he had mentioned. She did not understand if it was a formalized study equal to the one submitted.

Mr. Wood said he was a mechanical engineer and looked carefully at it and knew what he saw there, and it was not correct to say they solved all the traffic problems – not turning off Zia.

Councilor Cassutt-Sanchez asked Mr. Werwath about his statements concerning his comments on affordable housing and economics of 3-story building.

Mr. Werwath said he used the project on Siler Road for comparison for how density affects affordable housing. That is important to consider. Fewer units mean less revenue and does affect the financials of a project.

Councilor Cassutt-Sanchez asked Mr. Grogan about the gas line problem to elaborate.

Mr. Grogan said since the City adopted the stormwater management plan, a list of priorities to help with flood conditions was made. The City is still paying for effects from the 2018 flood. His statement was for a written report on Condition 12 to remediate erosion downstream from the pipeline crossing. The Developer said they would work with the City if the City provided a design and monitored implementation of that design.

Mayor Webber said the City Attorney disallowed the response from Ms. Jenkins.

Councilor Vigil Coppler asked Mr. Werwath about a comment earlier that indicated Santa Fe doesn't need any more apartments and wanted his view on that.

Mr. Werwath said Santa Fe needs lots of different types of affordable housing. People moving here would push out locals without places to live. But we are hemmed in with affordable apartments and cannot built just 3-4 units that are affordable in most of the City. It takes large apartment complexes to make the economics work for affordable housing. Overlay restrictions make apartments hard to put in some places in the City. This is a particularly good location for the apartments because of basic service availability.

Councilor Vigil Coppler asked him to comment on the ten-year limitation for keeping housing affordable.

Mr. Werwath pointed out that no affordable rental housing sets out to be affordable in perpetuity. Housing has life cycles. At some point, significant reinvestment needs to be made in housing. There are also issues involved in securing mortgages without uncertainty on the futures of them. The biggest federal affordable housing operations have a fifteen-year minimum expiration of affordability.

The Siler Road project has 40 years of affordability, but he did not think they could make it through 40 years without some revitalization along the way.

Councilor Vigil Coppler asked for his comment on 2-stories with a fee in lieu instead of affordable units being built.

Mr. Werwath said it was a mistake for the community to expect the developers to fix all the affordable housing shortage problems. We must invest proactively in affordable housing to maintain a balanced market.

Having diversity in the market was more important to him than solving the entire affordability problem. Money is the Trust Fund is very impactful.

Mayor Webber wanted to ask a question to Miles Conway. He was no longer present but returned to the meeting later.

Mayor Webber closed Public Testimony portion and thanked everyone who spoke. He felt the question period was also very useful.

Mayor Webber invited members of the Governing Body to submit questions for the Developer or Staff to Lee Logston by email before the close of business tomorrow.

Mr. Conway returned, and Mayor Webber recalled he used specific language about affordable housing and building housing but what he said was different. What he said was, “We need, as a community and as a City, to develop neighborhoods, not just drop housing down into places.”

He welcomed Mr. Conway to expand further on that because it is an important theme. Housing in the absence of a complex of neighborhood and neighborliness, services, mixed use, and careful design doesn’t really fulfill our goal as a community, to have livable neighborhoods.

Mr. Conway said Mayor Webber just took the words out of his mouth. Being someone who has lived in Santa Fe downtown, a person feels like the Plaza is the community but driving many miles away from it to lay their head down to rest.

The development begins to be the center of our universe there. There is already Albertsons and businesses on the east side, and this would be another little center. It is a smart way to go.

Mayor Webber thanked him for his comments.

Mayor Webber wrapped up the business with a reminder to send emails to Mr. Logston as follow-ups for Thursday evening’s next meeting.

6. **ADJOURN**

Having completed the agenda and with no further business to come before the Governing Body, the meeting was adjourned at 10:30 p.m.

Approved by:

Mayor Alan Webber

ATTESTED TO:

Kristine M. Mihelcic, City Clerk

Respectfully submitted by:

Carl G. Boaz, Council Stenographer

City of Santa Fe

AGENDA

SPECIAL MEETING OF THE GOVERNING BODY
APRIL 08, 2021
6:00 PM
ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR SPECIAL 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 in excess of those permitted in the current Public Health Order, the Special 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 on-line at any time during normal business hours. Please call 955-6521 for assistance.

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

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/91695212983?pwd=T3JyTThzdVJXM0w3cFdMTmJ0Y29hdz09.
Passcode: 288184 – Webinar ID: 916 9521 2983

1. **CALL TO ORDER**

2 **PLEDGE OF ALLEGIANCE**

3 **SALUTE TO THE NEW MEXICO FLAG**

4 **INVOCATION**

5. **ROLL CALL**

City of Santa Fe

AGENDA

SPECIAL MEETING OF THE GOVERNING BODY
APRIL 08, 2021
6:00 PM
ATTEND VIRTUALLY

6. APPROVAL OF AGENDA

7. PUBLIC HEARINGS

Please Note:

- *The five (5) related land use cases set forth below will be heard concurrently in a single public hearing.*
- *Some agenda captions have been slightly modified from their original version (as presented to the Planning Commission) in an effort to further clarify each caption and help distinguish each item.*
- *Due to the anticipated length and complexity of the hearing, the hearing will take place over the course of two (2) meetings of the Governing Body. The public comment portion of the hearing will take place ONLY at the first meeting, scheduled for April 6, 2021. Additional public comment will not be received at the second meeting, scheduled for April 8, 2021.*

a. **Case #2020-2898. North Zia Station General Plan Amendment.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests Approval of a General Plan Amendment to Amend the Existing General Plan Future Land Use Classification from Low Density Residential (3 to 7 Dwelling Units Per Acre) to High Density Residential (12 to 29 Dwelling Units Per Acre) for Approximately 13.3 Acres at the Northwest Corner of St. Francis Drive and Zia Road. The Properties are Zoned R-1 (Residential- One Dwelling Unit Per Acre) and are within the South Central Highway Corridor Protection District. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

b. **Case #2020-2914. South Zia Station General Plan Amendment.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests Approval of a General Plan Amendment to Amend the Existing General Plan Future Land Use Classification for Approximately 1.9 Acres from Low Density Residential (3 to 7 Dwelling Units Per Acre) to Transitional Mixed Use at the Southwest Corner of Zia Road and Galisteo Road. The Properties are Zoned R-1 (Residential- One Dwelling Unit Per Acre) and are within the South Central Highway Corridor Protection District. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

c. **Case #2020-2900. Zia Station South Central Highway Corridor Overlay Rezoning.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests a Rezoning to Amend the Boundaries of the South Central

Highway Protection Corridor to Exclude Two Properties at the Northwest and Southwest Corners of St. Francis Drive and Zia Road from the Overlay District. The properties are Zoned R-1 (Residential- One Dwelling Unit Per Acre), are within the South Central Highway Corridor Protection District, and Comprise a Total of Approximately 22.7 Acres. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

d. **Case #2020-2899. Zia Station General Commercial Planned Unit Development Rezoning.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests a Rezoning from R-1 (Residential- One Dwelling Unit Per Acre) to C-2 PUD (General Commercial- Planned Unit Development) for Properties Located at the Northwest and Southwest Corners of St. Francis Drive and Zia Road. The Properties are Zoned R-1 (Residential- One Dwelling Unit Per Acre), are within the South Central Highway Corridor Protection District, and Comprise a Total of Approximately 22.7 Acres. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

e. **Case #2020-2901. Zia Station Preliminary Development Plan.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests Preliminary Development Plan Approval for a Mixed-Use Planned Unit Development to be Developed in Two Phases. The Planned Unit Development will be Comprised of Approximately 384 Dwelling Units, 84,000 Square Feet of Office Space, and 36,000 Square Feet of Restaurant/Retail Space at the Northwest and Southwest Corners of St. Francis Drive and Zia Road. The properties are zoned R-1 (Residential- one dwelling unit per acre), are within the South Central Highway Corridor Protection District, and Comprise a Total of Approximately 22.7 Acres. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

8. **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.

SUMMARY INDEX
Governing Body
April 8, 2021

ITEM	ACTION	PAGE
1. Call to Order	Convened at 6:02 p.m.	1
2. Pledge of Allegiance	Led by Councilor Villarreal	1
3. Salute to the State Flag	Led by Councilor Garcia	1
4. Invocation	Led by Councilor Vigil Coppler	1
5. Roll Call	Quorum Present	1-2
6. Approval of Agenda	Approved as presented	2
7. Public Hearings		
a) Case #2020-2898 North Zia GPA	Approved	2-35
b) Case #2020-2914 South Zia GPA	Approved	2-36
c) Case #2020-2900 Zia SCHC Rezone	Approved	3-36
d) Case #2020-2899 Zia PUD Rezone	Approved	3-36
e) Case #2020-2901 Zia Dev. Plan	Approved	3-37
20. Adjournment	Adjourned at 1:14 am	37

Minutes of the
Special Meeting of the Governing Body
Tuesday, April 8, 2021
Virtual Meeting

1. CALL TO ORDER

A special meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Alan Webber, on Wednesday, April 8, 2021, at approximately 6:02 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 Villarreal.

3. SALUTE TO THE NEW MEXICO FLAG

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

4. INVOCATION

The Invocation was led by Councilor Vigil Coppler.

The Governing Body observed a moment of silence for those who have recently died and their grieving families.

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 Carol Romero-Wirth
Councilor JoAnne Vigil Coppler
Councilor Renee D. Villarreal

Members Excused
Councilor Signe Lindell
Councilor Christopher M. Rivera

Other Participants Attending Remotely
Jarel LaPan Hill, City Manager
Erin McSherry, City Attorney
Kristine Bustos-Mihelcic, City Clerk
Lee Logston, Planner Senior
Sally Paez, Assistant City Attorney
Elias Isaacson, Land Use Director
Noah Berke, Planner Supervisor
Alexandra Ladd, Affordable Housing Director
Carl Boaz, Council Stenographer

6. APPROVAL OF AGENDA

MOTION: **Councilor Villarreal moved, seconded by Councilor Vigil Coppler, to approve the agenda as presented.**

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

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

Against: None.

7. PUBLIC HEARINGS

a. **Case #2020-2898. North Zia Station General Plan Amendment.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, Requests Approval of a General Plan Amendment to Amend the Existing General Plan Future Land Use Classification from Low Density Residential (3 to 7 Dwelling Units Per Acre) to High Density Residential (12 to 29 Dwelling Units Per Acre) for Approximately 13.3 Acres at the Northwest Corner of St. Francis Drive and Zia Road. The Properties are Zoned R-1 (Residential- One Dwelling Unit Per Acre) and are within the South-Central Highway Corridor Protection District. (Lee Logston, Case Manager, lrlogston@santafenm.gov, 955-6136)

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Mayor Webber outlined the procedure for this public hearing, including disclosures, if any, a presentation by Staff, and then questions from the

Governing Body to the DRT through Mr. Logston, which would be organized by topics. He listed Affordable Housing, Project Density, Arroyo, Stabilization, Traffic Circulation and Production, Pedestrian and Bicycle Safety, Building Heights and View Corridor, Legal Criteria for Rezoning, and Other Questions.

DISCLOSURES

There were no disclosures.

STAFF RECAP REPORT

Mr. Lee Logston shared his screen and recapped the case reports. He noted the sequence of cases builds on the previous. In Case #2020-2898, the North General Plan Amendment from low density to high density for 13 acres. Case #2020-2914 – South General Plan Amendment, is from Low Residential to Transitional Mixed Use. Case #2020-2900 is the SCHC boundaries amendment request. Case #2020-2899 is to rezone from R-1 to C-2 PUD for the entire property. Case #2020-2901 is the Preliminary Development Plan for mixed use development in two phases 384 dwelling units on 84,000 square feet for residential and some restaurant/retail uses.

He clarified that If the SCHC amended boundary is denied, then zoning must also be denied. He would offer more information at each case. The packet included sample motions. He introduced Afshin Jean and Bill Craven and David Harris, who were present from the New Mexico Department of Transportation, and Trent Thrasher from Wilson & Company who did traffic analysis.

QUESTIONS TO DRT

Councilor Garcia recalled from the last meeting, Mayor Webber had asked Council members to forward questions to Mr. Logston. He asked if the Governing Body could hear what Councilors had asked and the responses given.

Mayor Webber said the questions were assembled, but answers are to be given here at this meeting.

Mr. Logston said he did answer a question from Councilor Garcia, and he met with Councilor Villarreal for a discussion, but she will ask her question here, as well as Councilor Cassutt-Sanchez who submitted an extensive list of questions.

Affordable Housing Questions

Councilor Villarreal said it would be helpful to understand how the inclusionary zoning ordinance functions for multi-family development and why there is a ten-year limit on affordability.

Mr. Logston referred the question to Director Ladd.

Director Ladd explained that the premise behind it is that the creation of market-rate units requires affordable rate units. It works well for ownership but harder to work with rentals because the loss restriction doesn't happen once but month after month after month. So when the developer gets financing, they can show their project earns money so bank knows it can be repaid. With rent restrictions in place with an entity not set up to manage the units or needing income certification we are asking the owner to choose their very high density and not our market. So we have struggled for years to make rental side affordable housing work. With the Inclusionary Zoning in 2006, we did not have any builders doing rental apartments for over a decade. Coming out of the recession and realizing we had a shortfall in inventory, we documented 2,600 units. The high end, we would not support but those people have few choices, and it is a shortage. We have some people paying way too much for rent. Santa Fe has the highest rate in the state. So we created options that went beyond the fee in lieu of option for how the restriction would work at 15% or a hybrid of units and fee in lieu of.

Councilor Villarreal thought HUD had a different time period of 15 years.

Director Ladd said the period for subsidized affordability is dependent on the source of the subsidy. Originally it was 15 years and now most subsidy programs are 30 to 40 years. But this is not a subsidy program. The renters will be work force renters who don't want to live in a converted garage or some others. They cannot afford the rent here, so a ten-year term was chosen to help them be able to get stabilized.

Once a rent restriction is required, that unit will be restricted, and the bank lender wants to see the end of it. At 30-40 years, the bank is worried they may not get repaid at all. Because the renters are higher level, at the end of ten years, they have options and mobility. Because this is our first time, the language is not finalized yet.

Councilor Villarreal asked if she wanted to add to that process at the end of ten years.

Ms. Jenkins said the ten-year plan is straight out of Chapter 25 in City Code that a relocation plan is required and obviously is the right thing to do. So we make that commitment.

Councilor Villarreal asked if the development has 39 affordable units.

Ms. Jenkins agreed.

Councilor Villarreal asked if they were located in both town homes and apartments.

Ms. Jenkins said affordable units are spread among all housing choices.

Councilor Cassutt-Sanchez asked, with 120% units for 10 years, if the occupant wanted another option, whether that could be considered.

Director Ladd explained that the developer enters into agreement with the City and which is filed with development documents with the County Clerk and that obligation is transferred with the title. We have had some conditions changing drastically and amendments are permitted but usually it is just which lots are affordable. And it must go through the City's approval process. By Code, the City Manager is authorized for that, so an amendment would be approved by the City Manager. But for something that is not in Code, it would come to the Governing Body for approval.

Ms. Jenkins responded that in the event we would propose a change in the AH program, even though not an alternate plan, we would bring it to the Governing Body voluntarily.

Councilor Cassutt-Sanchez asked if that would need to be in writing.

Ms. Paez said it could be a condition of approval in a motion later on.

Councilor Cassutt-Sanchez hoped for more discussion on housing needs in the City - more than the 2600 units mentioned.

Director Ladd said the best study is an apartment study by CCRE that Albuquerque does each year. They are surveying all members of the Apartment Owners Association. It reveals trends over time. It will change this year, but Santa Fe has been at functional zero for the past several years.

Councilor Cassutt-Sanchez observed lots of discussion about the frustration of the public. She hoped to hear why the AH Trust Fund is important.

Director Ladd said it was a great question. Because these are local funds, the use is codified in our Code so it is very regulated. But we can build in lots of flexibility which we could never be able to do with federal money. Also, on the provider side, it helps with applications for other funding sources. And we show a 3-1 leverage ratio. That creates a bigger impact for the funds instead of just a dollar-for-dollar investment. The fund can be used for direct assistance - typically renter's assistance and can be flexible with income criteria. We have used rental assistance for down payment buy down. No payment and no interest. That leverages the market with impact. Third is for home repair and sometimes loans. Most are grants for very low income people – usually elderly women. The funds can be used for construction, rehab, and related construction costs to preserve AH.

Councilor Garcia asked Staff if there was anything to prohibit an applicant from offering 30-40 years or anything above the baseline of ten years.

Mr. Logston said in the end, it is project financing. They are subsidized for a certain length of the financing. At the Planning Commission, Daniel Werwath stated the units at Siler Yard were slated at 40 years affordable, and he thought they would need to revisit that to renegotiate their financing.

Director Ladd clarified the ten-year period is in our Code so we could not ask anyone to provide more than that. The developers we met with felt that was the best length. Doing it through market rate is not the way to go. We have many that are amazing and Civic Housing did good job on translating some for very low income residents. It provides rent subsidy for some very low-income renters. She was not sure a longer time frame would even be enforceable. If a developer offered a 15-year subsidy, we could consider it as allowable under the Code.

Councilor Garcia recalled a 15-year program was originally proposed. He asked Ms. Jenkins why it was changed to 10 years.

Ms. Jenkins said they have been working closely with Director Ladd for a program that works for the City and for this one. We first proposed 5 years, but in further discussion, we were sent back to the drawing back and pivoted back to the ten-years as required by the Ordinance. It was never 15 years.

Councilor Garcia asked if the Developer would agree to a longer term.

Ms. Jenkins said this program, as proposed, is difficult. They felt they could do this as it is and did not believe a time frame beyond ten years would be feasible.

Councilor Garcia asked the City Attorney if that was something the Governing Body could stipulate for a relocation process. Talks can break

down. He asked if that could be a requirement and include it for sure as a process.

Ms. Paez was not that familiar with inclusionary zoning in the Code.

Ms. Jenkins read from Section 26.129B the specifications.

Ms. Paez didn't see that as a condition but will be in the code requirements.

Councilor Garcia understood and had no further questions on this topic.

Ms. Jenkins, in response to Councilor Vigil Coppler, said the Santa Fe Homes Ordinance must be imposed first. Everyone is sharing the same amenities in the complex so there is no distinction of affordable units from market units.

Councilor Abeyta asked what happens when tenants change.

Ms. Jenkins said that code section says ten years from the date the facility is fully leased. That is when the clock start ticking. So some will have longer than ten years.

Director Ladd added that when a tenant moves out, the new tenant moving in is certified.

Councilor Romero-Wirth said the Governing Body heard that without a third story, there could be no AH units. She asked what that does to the fee in lieu of amount.

Ms. Jenkins said, from their standpoint, it is not just about losing those units but about the entire economics of the project. She could crunch those numbers, but the impact was not fully determined yet. There is just not enough room to make AH work without the third story.

Councilor Romero-Wirth was trying to understand if there was another way to do it, understanding the economic considerations.

Ms. Jenkins agreed it is an important conversation.

Councilor Abeyta understood sometimes people qualify because of children. He asked which schools would serve this development.

Ms. Jenkins said they were Chaparral, Milagro and SFHS.

Councilor Romero-Wirth said she would still be interested in the amount required for fee in lieu for the whole project at two-stories.

Ms. Jenkins would calculate it.

Director Ladd estimated it at $1,400 per unit.

Ms. Jenkins said at 384 units, it would be over $500,000.

Councilor Garcia asked about unit count without a third story.

Ms. Jenkins said it would be 348 units.

Project Density Questions

Councilor Romero-Wirth asked if the number of units can be achieved on the property without a third story.

Ms. Jenkins said they studied that. Unless the units got very small, it would not be achievable. The north phase is 100% residential (north of Galisteo) and the south has 2 and 3 story units. The arroyo and stormwater collection areas are not developable and the plan doesn't have much excess parking.

On the south side, they wanted as much parking as possible in structures and some underground. The dark brown buildings are all 2-story with 3-story units along St. Francis. The town homes face Galisteo with on-street parking and garage access on the alley. These are not big buildings, but there are not many opportunities to expand horizontally. The site is appropriately dense for infill. The open spaces and green spaces are important. She pointed out the access points for the underground parking. Although accommodating vehicles, this plan emphasizes pedestrians.

Councilor Romero-Wirth asked why there couldn't be more underground parking to achieve 136 units.

Ms. Jenkins said underground parking on the north side was not feasible.

Councilor Romero-Wirth asked if they could forego some open space.

Ms. Jenkins said the arroyo and stormwater management area cannot be used for development. This design is very efficient, and many units are accessed on the inside to get the density we need to achieve. Underground costs $55,000 for each unit.

Councilor Romero-Wirth asked if the economics could work, with more residential instead of commercial.

Ms. Jenkins said it was an interesting question. She would consult with her team about it. One great thing about mixed use is that it creates great flexibility to meet the market demand. Right now it is more residential. Also consideration about traffic needs to be considered. She asked to come back with a response for that.

Councilor Abeyta was curious about housing trends as it relates to Millennial and Gen Z populations. Most don't want the typical 3-bedroom house with front and back yards. Kids don't want that kind of house today.

Ms. Jenkins agreed and said that informed their thinking. We hear a lot anecdotally. This is part of a spectrum. There is high desire for mixed use, walkable, low maintenance with public transit access. They studied all of that to inform this design. Whether young people or older professionals without children who love walkability. At the Railyard Flats, they were amazed by the demographic. 23- to 83-year-olds live there for their own reasons. – beautiful space, modern space, walkways. It is not for everybody and we are not doing it for everybody.

Councilor Garcia thanked Councilor Abeyta for that relevant question. He thought Millennials were interested in high-end homes.

Councilor Abeyta said many cannot afford more traditional homes.

Councilor Garcia asked for a breakdown of units on south and north.

Ms. Jenkins said the north part has 284 apartments and 14 town homes. The South has 14 town homes and 112 apartment units in 2 or 3 story.

Councilor Garcia reasoned that retail makes up some on the south side. He had the same interest in design for all at two-story and being able to work within current code and probably could make it financially feasible.

Ms. Jenkins reminded him that within the SCHC, in addition to height, requires 50% dedicated to open space. So all parking and all building that is not landscaped area would need to be concentrated.

Councilor Garcia asked if that is for 100% residential.

Ms. Jenkins said mixed use is 35%. We are at 42% on south and 28% on the north right now.

Councilor Garcia surmised it is impossible to meet the open space requirement.

Ms. Jenkins agreed. They could not achieve the residential units and meet the space requirements.

Councilor Garcia saw the south is very dense and north side less dense.

Ms. Jenkins said in the design, there are 45 residential units on third story and all are on the south side in buildings H, I, J, K, and L.

Councilor Garcia found it hard to believe it could not be met. He understood the orchard and water park that were wanted.

Ms. Jenkins said it is in the water retention area and all fed by water harvesting and an opportunity to densely landscape. They analyzed a potential for a parking structure and the numbers would not work. If the numbers did work and could achieve with higher density, they would have come with that type of project. Underground parking in multifamily units do not work in Santa Fe.

Councilor Garcia understood. He asked if the underground and one-story garage could be implemented on the north side also.

Ms. Jenkins said adding an above ground structure would not be feasible and it would be a really big structure.

Councilor Garcia asked Ms. Paez about questions on financial feasibility for underground parking.

Ms. Paez said part of the Code precludes that in a rezoning case. She quoted from the Code and said the Council can talk about general feasibility, but specifics are off limits.

Councilor Cassutt-Sanchez asked for density terms.

Ms. Jenkins said overall, it is a little over 18 units per acre. The north is 24 du/acre and south is 14 du/acre. If limited to two-story buildings, the south would be 9 du/acre and north would be 14 cu/acre.

Councilor Cassutt-Sanchez thought in the conversation of making up units Ms. Jenkins said density would need to be very high. She understood in trying to make up units, it would still need the Governing Body to remove the SCHC restriction. She asked if that was correct.

Ms. Jenkins said they were requesting C-2 PUD and the SCHC limits to 21 du/acre and low income at 24 du/acre. There is also the open space requirement at 50% on the north and this is at 37.5% which is under C-2 and on the south is 42%. So we cannot have a significant density increase

and could only achieve it if one-third of the buildings are 3-story with appropriate setbacks. Density and height are two sides of the same coin. These things are essential for quality of life. They did a huge amount of study to achieve this result. "As you can see, the only element we are not in compliance for SCHC are the 3-story buildings. And on the north, those are lower than St. Francis."

She showed a rendering of the northwest view that showed how each story is stepped back and only 17' visible from St. Francis. On the south, only 15' would be seen from St. Francis. The setback is130' from the corridor of St. Francis. She explained how the project relates to surroundings at heights. She showed that the three-story was a lower altitude than Albertsons.

Councilor Vigil Coppler said Millennial still want livable, walkable sites and transportation available so not need for a car. In the study of Midtown Link, the study of what Millennials want was considered. It was important at the time and still is. The Midtown Link was about creating neighborhoods and this plan addresses that. She related it to Nob Hill in Albuquerque and noted those projects are doing very well. She agreed with Councilor Abeyta.

Mayor Webber asked Mr. Logston how he would categorize this density.

Mr. Logston said it is on upper end of density we allow (up to 29 du/acre) and have approved some as high as 60 du/acre. He pointed out that when taken as a whole, this plan meets SCHC density. There are higher densities than this proposed in the City.

Mayor Webber asked where we would see what you call townhomes in Santa Fe.

Ms. Jenkins said across the street. It is an attached row house. They are seen in Tierra Contenta also. But we propose them as rental homes.

Mayor Webber asked how would be a target customer.

Ms. Jenkins said it is a diverse target. She listed some and said they are hitting a lot of elements in our community.

Mayor Webber noted Ms. Jenkins had mentioned some buildings could be adapted to other uses as the market reveals more housing. If that happens, he asked if the Developer would owe more in Fee in lieu of.

Ms. Jenkins said the ordinance does talk about conversion to other uses. There is a similar provision for commercial to residential. But the number of units in PUD establishes a maximum number of units, and maximum sizes. There is the opportunity for it to be a bit organic which is a great thing.

Mayor Webber liked the point for flexibility, but asked if she had a plan with calculations.

Ms. Jenkins said if they end up with less than 112 units on the south, they won't ask for money back.

Arroyo Stabilization

Councilor Villarreal asked, in considering the thousand-year storm event, whether the Governing Body needs to consider more severe storm events with climate change. The flooding in this area caused damage and severe erosion. She thought it in the best public interest to consider the base analysis being higher. She asked what they used for the analysis.

Ms. Jenkins pointed out that none of the storm water on the north side was going into the arroyo. She showed the arroyo and the old trestle. She showed the 90-degree turn. In conversation with City Staff, they agreed to stabilize that area on the existing condition. The bank stabilization plan is not done yet. Under current City Code, all is based on a hundred-year event. And Staff asked us to run a 500-year event. Ms. McDonald is very familiar with that site.

Councilor Villarreal wanted to know why the City holds to a hundred-year event when the tunnel north of there was completely filled with water at the last major event.

Ms. Dee Beingessner said the Code only requires provision for a 100-year event and the ponding complies. The bank stabilization comes from upstream and not the result of this development. It would have to address what is coming from developments upstream. She said the development upstream had ponds in the arroyo, but this development has no ponding in the arroyo.

Councilor Villarreal thanked her for the explanation. But she wondered how that 1000-year event could not affect this development, given the fact that they are so close to the arroyo.

Ms. Beingessner said she had not seen how it would affect this project and they are already doing arroyo stabilization.

Councilor Villarreal asked Ms. Jenkins why they would not consider a higher level.

Ms. Jenkins said they could offer a design for bank stabilization which will be part of the next submittal, and to run the analysis for a 500-year event to assure what would be constructed here would not blow out.

Councilor Villarreal suggested it was more to protect the development, but the damage was to the existing residents. The City needs to raise that level because of what we saw happen. She did not think a 100-year event was sufficient. Related to that, Mr. Grogan raised the prioritization for the pipeline.

Ms. Jenkins said Mr. Grogan characterized it and we have had numerous conversations with Mr. Grogan about it. She showed the natural gas pipeline and the culverts to direct the water below. Mr. Grogan felt the culverts were undersized and they might be. The City did a study, and the preliminary analysis was that they could be undersized. The water does slow down there, and the smaller culverts exacerbated the speed of the water. Our consulting engineers to not share Mr. Grogan's analysis. We alerted the gas company to the concern and they said they were at the table to address it. It is not on the applicant's property. The irony is that the culverts actually slow the water down. She offered to have her engineer address it.

Councilor Villarreal thanked her.

Councilor Romero-Wirth quoted from the analysis and said, to be clear, that Ms. Jenkins is not in agreement with what Grogan wants to be added to condition 12.

Ms. Jenkins agreed. She was not sure his analysis is correct.

Councilor Romero-Wirth pointed out that Mr. Grogan intimated you were in agreement.

Ms. Jenkins said they had many positive conversations. She agreed to be at the table and collaborative and whatever is done would be with the Gas Company. At no time did she agree to commit to the responsibility for that condition.

Councilor Romero-Wirth asked if it would be okay to put her language into the condition rather than Mr. Grogan's.

Ms. Jenkins agreed. That effort needs to be coordinated among the stakeholders.

Traffic Circulation & Bicycle and Pedestrian Safety

Councilor Garcia observed there were a lot of comments regarding traffic. The project will change traffic flow significantly, especially with no left turn from the south. He asked if the TIA only dealt with the proposed project area.

Ms. Jenkins said it did not just deal with proposed project area with its scope. She shared her screen on the traffic study parameters. She said they worked closely with John Romero and with NMDOT and she identified the eight intersections that were studied. All were conducted pre-COVID.

Councilor Garcia asked her to go further in the study.

Ms. Jenkins said in addition to vehicles, it counted cyclists and pedestrians. The counts also took into account the train as it moves through the area. It does affect things. All of those were part of the analysis.

Councilor Garcia pointed out that the Governing Body heard from folks that they can no longer make any left turns, must use alternative routes down Galisteo or else cut-through routes would be used.

Ms. Jenkins compared before and after development. The proximity of Galisteo to St. Francis meets no standards. It is much too close and creates a space issue with cars backing up at the tracks or St. Francis. So the solution was to redesign Galisteo and pull it away from St. Francis. It allows a lot more storage as vehicles approach St. Francis. It includes three left turn lanes from 93 feet to 375 feet which is a huge benefit and increases safety with relocation. We advocated for signalized intersection at Galisteo and Zia and were denied because it was still too close. We must meet signal volume criteria (warrant) and if not met, federal regulations say no signal could be installed. There was not enough traffic on Galisteo to warrant a signal. So it has a limitation on access at the intersection. The only prohibited turn from Galisteo is left onto Zia from both directions. It is the same as at GCCC and at the new Presbyterian Clinic. The City would never allow left turns if the present Galisteo location were built today. U turns to accomplish left turns are a safer alternative.

Councilor Garcia asked if the TIA dealt with pedestrians stopping traffic. Is that how this cross walk would operate?

Ms. Jenkins said they really wanted a safe way to cross Zia without going all the way to St. Francis. It is a win-win. The median serves as a pedestrian safety zone in a two-stage crossing (a pedestrian median refuge). She explained how it would work.

Councilor Garcia asked about preventing a driver from trying to turn left after the intersection into a left turn lane going the opposite direction.

Mr. Eric Wrage was sworn and gave further explanation on Councilor Garcia's question that it was by striping and signage.

Councilor Garcia thanked him. The additional factor here that it is not on Cerrillos Road. He wanted to make sure it will not be a bigger problem in the future.

Councilor Cassutt-Sanchez thanked Ms. Jenkins for the traffic analysis. She was curious about how Rail Runner frequency might impact this development.

Ms. Jenkins said with more frequency of stops, it would affect this intersection. The south phase would be developed in subphases and we have a requirement to update the traffic study with each phase completion to ensure the improvements being made are still warranted. The TIA update would take additional stops into account. But as we showed, the dramatic reduction would be a win. And improving ridership on the train is also positive.

Councilor Cassutt-Sanchez assumed the roadway improvements would happen first.

Ms. Jenkins agreed. Those would be part of Phase 1 construction.

Councilor Cassutt-Sanchez asked if they would also be able to make improvements to the intersection.

Ms. Jenkins- agreed, within restraints. And if they had to reduce the plan as a result of the TIA update, they would do so.

Councilor Cassutt-Sanchez went back to the critical mass for feasibility.

Ms. Jenkins explained "it is the nature of the beast and the traffic study informs the program. We designed after understanding the TIA results. It all happens together, and it is a risk, but we have confidence in the incredible results from the TIA."

Director Isaacson reminded the Governing Body that NMDOT still needed to testify about that issue.

Councilor Cassutt-Sanchez noted the TIA has a technical piece she didn't understand.

Ms. Jenkins commented that with a project with multiple phases, if you push too much into the future, it loses validity. The intent is to project into the future but updating as we go. So that dilutes the impact with something more meaningful.

Councilor Cassutt-Sanchez asked if there were any other safety improvements Ms. Jenkins had not touched on.

Ms. Jenkins said yes. Everything in blue shows sidewalks in the network. The hot crossing is a big part. On Tuesday, she forgot to mention the MPO recommendation to allow bicyclists an easier and quicker way to get to the off-road trails. Everything internal to the project are new sidewalks.

She showed the proposed Zia Road Section across the frontage, showing vehicle lanes, bike lanes and new pedestrian sidewalks (8' wide on south). So the whole stretch of Zia road will be greatly improved.

Councilor Cassutt-Sanchez asked if those were in response to City requirements or offered on their own.

Ms. Jenkins said it was a little of both. They are exceeding minimum sidewalk requirements by quite a bit. Multiple new rail trail connection opportunities for the neighborhood are a big benefit.

Councilor Cassutt-Sanchez asked Erick Aune about the MPO network process. Since this is considered the most dangerous intersection in the country.

Mr. Aune said the MPO did a crash data analysis including multiple intersections impacted. There is a lot of data and was pre-COVID data for St. Francis and Zia Road. There were a number of crashes and learned the vast majority of them did not involve serious injury and did not involve bicyclists or pedestrians. St. Francis is not intended for those uses. Compared with other intersections with similar volume capacity, they often have traffic movements that result in crashes. The vast majority of motorists are tailgating. Also the number of folks commuting vs local drivers.

The bottom line at this intersection, given crashes, and design, is not different from other intersections.

Councilor Cassutt-Sanchez asked, based on the proposed improvements, what his thoughts were and how he thought those will impact safety.

Mr. Aune mirrored what Ms. Jenkins said. The MPO appreciated being asked to be involved. The MPO suggestions were supported by her. And the bottom line was that the number of lanes, including the Hawk signal,

were MPO suggestions and a game changer in the City limits. Also the relocation of Galisteo. We feel very comfortable with what is proposed to the Governing Body.

Councilor Cassutt-Sanchez said part of the reason for high volume on St. Francis was lack of another interconnectivity. She asked him how the City could do a better job on dispersing traffic around the City. She asked about the southeast connector that was mentioned.

Ms. Jenkins said the southeast connector is a new project that will help. The intent is to relieve traffic on Richards Avenue and drivers using Richards make a right on Rodeo as soon as they can. The project is funded by Santa Fe County and will have a positive impact.

Councilor Cassutt-Sanchez asked Ms. Jenkins to describe the realignment of Galisteo.

Ms. Jenkins explained the proposal requires vacating the existing alignment and the City needs to accept the new ROW. If the project receives approval, we will submit a formal request to vacate the ROW, it is a swap for the project and also dedicating more ROW for left turns. It would be on a parallel path with work on north and the realignment. We have worked closely with City Staff on it and following the process laid out in City Code.

Councilor Cassutt-Sanchez asked how that will impact people living on the south side.

Ms. Jenkins said the existing location will be open until the new location is ready to open. So it would have literally no impact or interruption to neighbors to access their homes or the Rail Runner. There will be flagmen during some work on Zia.

Councilor Villarreal noted that on the Zia access, there will be no left turn out of Galisteo anywhere. She asked what current and future residents will do to go west on Zia Road.

Ms. Jenkins indicated the planned route to go west on Zia was to go south on Galisteo to Rodeo. There would also be access to Chaparral. She showed the route to use Chaparral which would also serve Chaparral Elementary. But going to Rodeo would be faster and shorter.

Councilor Villarreal felt that should be required in the scoping.

Ms. Jenkins said they will have a very diverse demographic with one bedroom, two bedroom and studios. Connectivity is a double-edged sword.

New subdivisions are not allowed on a cul-de-sac by Code. Having opportunities to spread traffic out is part of a healthy network.

Councilor Villarreal recalled comments about pedestrian ways. She asked what the plan is for the side streets.

Ms. Jenkins said they are served by a sidewalk with crossing opportunities along Galisteo instead of having to go to Zia. They will offer to stripe crossings at the intersections if the City wants that. In some instances, it is not considered ideal.

Mr. Trent Thrasher was sworn. He is an employee of Wilson & Company and serving as consulting traffic engineer for the City until the position is filled. He said most housing will be on the west side. On the south side, the housing component is less, and they would take the route Ms. Jenkins noted students could cut through, which is only a half mile instead of a mile. Regarding cut-through traffic, he thought most residents would not perceive any difference in the amount of traffic. In his mind, the biggest draw would be from those students. Some would go through when they can't turn left on Zia. But most would go to Rodeo or back to St. Francis. He didn't think cut-through will be an issue.

Councilor Villarreal said that was helpful and thanked him. She was curious how this works when reviewing the TIA and how everyone communicates it. Everyone needs to be on the same page. She asked him to explain how they coordinate the review, concerns and ideas.

Mr. Thrasher said his comments went to Mr. Berke and City Staff who gathered data from all stakeholders. Often, the Applicant would come to the meetings for back-and-forth information to reach a final recommendation on what the Applicant needed to go forward.

Councilor Villarreal asked to address the DOT.

Mr. Berke suggested Afhsin Jean.

Mr. Afhsin Jean, NMDOT Traffic Engineer, was sworn. He said in 2007 and 2008 there were lots of communications among stakeholders and DOT was involved in the roadway studies. Despite what some might say, DOT doesn't keep analyses to themselves. We did analyses of railroads and pedestrians in the past but relied on developer and consultants for the analysis of the project.

Councilor Villarreal asked if he had any preliminary concerns.

Mr. Jean said they had lot of concerns when COVID hit, to change traffic patterns. So we had to go through a big process that helped but was lengthy. We also incorporated a study method that was more stringent and closer to the things that needed analysis for how traffic would end up. Bohannon provided some of what we needed. We do have some concerns on the intersection and what is connected to the intersection which involves our facilities and City's facilities. He still has some concerns on the impact there. The right turn is the right lane and a big issue that goes to the interstate and that lane utilization creates backup all the way to the north to St. Michael's.

Councilor Villarreal appreciated the analysis on the three lanes. The straight through and right turn. She asked who did that analysis for people trying to get on St. Francis and to the interstate. This is an issue because multiple things must be coordinated. What do your numbers show that would make the right turn combine straight through and right turn?

Mr. Wrage said they analyzed the far-right lane traffic and found the benefit from triple right is substantial and tradeoffs had to be made. The analysis did not complete no right on red, but it is still better overall. It was a tradeoff. Left turns were much higher.

Councilor Villarreal asked how the hot signal coordinate with train stops.

Mr. Wrage said it will be interconnected to the St. Francis control. There is a big silver shed at that intersection to know when a train is coming and when it is, the pedestrian hot signal would not turn red and prevent pedestrian access. As the gate goes down, the pedestrians could use it. There were other things to offer protection. If people kept pushing the button, it would stay red. But the safety median helps. The turning lane is being narrowed a little and the bike lane is narrower. The Hawk would operate "pretty snappy" with restrictions. Red will not be on for a long time.

Councilor Villarreal asked if the Hawk has a voice for ADA.

Mr. Wrage agreed it will have some audible component.

Mr. Thrasher added that accessible push buttons can be programmed with a specific message or use the manufacturer's message. It would state when they are free to go forward and what direction they are headed. All requirements will be met.

Mr. Jean said he believed in Hawk signals but had some concerns with how to use the Hawk system.

Councilor Villarreal asked regarding the decel lane on St. Francis, which she saw becoming an acceleration lane to beat the light and asked if that got consideration.

Mr. Wrage said the best answer is that we can see if current standards are being met and if DOT or the City would want more considered. The gate is right there so there are restraints for the intersection. We would not consider three lanes right because of pedestrians there. And the geometrics would make the intersection more dangerous. We will touch that intersection and the three left would require some changes on the northeast corner. The whole intersection will get the once over.

Councilor Villarreal commented that even now, drivers don't look for pedestrians. They are still looking left as they turn right. That could be precarious activity with all the other changes.

Councilor Romero-Wirth asked Ms. Jenkins how far west Galisteo would move.

Ms. Jenkins- said it is 300 feet to the west.

Councilor Romero-Wirth asked if there was a map that shows realignment.

Ms. Jenkins said yes and showed it.

Councilor Romero-Wirth wondered how many would do a U turn. She was also worried about people in the median refuge. It was a little scary and asked how the signals work.

Ms. Jenkins said the pedestrian controls the Hawk signal. But pushing the button would not stop the train or prevent cars from speeding down the road.

Mr. Thrasher explained the interconnection is a set of priorities the controller would run. It knows when a pedestrian pushes the button, and also where it is in the cycle and if a train is coming. One benefit of the Hawk is that without pedestrians, it goes dark.

When the Hawk activates, it will have a flashing yellow light and then solid yellow and two red lights steady red. Then the red signals would flash to allow a vehicle to wait until the cross walk is clear and then proceed. Then it turns off. This Hawk is in two stages and if the pedestrian walks down the median, they will face oncoming traffic as another safety measure and gives other notice a pedestrian is waiting. The pedestrian light counts down on how much time is left.

Councilor Romero-Wirth thanked him for explaining the orientation of the median refuge. She was worried with waiting to turn right and encountering the red Hawk signal.

Mr. Thrasher that was not studied but there would also be a level of enforcement to get familiar with. So we also have to work on people obeying the laws. And if the police are there for a while, people could get used to the new system.

Councilor Romero-Wirth asked what the study showed on how many walk along there.

Mr. Wrage said the traffic on Galisteo was minimal compared with east-west traffic, so we don't have a good estimate on potential pedestrians. It wasn't high and that is difficult to predict. We know the number who cross Zia. But existing pedestrians on Zia is very small.

Councilor Romero-Wirth asked about drivers eastbound on Zia across St. Francis.

Mr. Wrage said the analysis showed there is traffic from retail on the east and residential (considered employment trips) going to work or to Old Pecos Trail That information was included. He had the numbers – 50 U-turns in morning and less in the pm. 200 wanting to go south on Zia. And 230 in pm. A lot of that is existing traffic. He said they are residents of the area and some is cut-through traffic.

Councilor Romero-Wirth went back to the Chaparral alternate route for going west and asked how to evaluate that.

Ms. Jenkins said it is not easy to evaluate but more people would stay on major routes than going through Chaparral.

Ms. Jenkins said Richard Wood had a long list and she responded to them. On the traffic study, there were questions around methodology that were also answered. It did not lead them to change the methodology. Mr. Wrage responded to most of them.

Councilor Romero-Wirth encouraged his response.

Mr. Wrage said Mr. Wood sent three groups of questions – mostly for clarifications and his observations, which were valuable too. He made a statement that Mr. Wrage told him pedestrians were not included but that was inaccurate. He said the methodology had minimal impact on pedestrians. We will be doing more on that in more detail.

Councilor Romero-Wirth asked the Rail person if the Rail Runner would anticipate more stops in Santa Fe in the future.

Mr. Bill Craven was sworn there will be more trains and more will stop at Zia Station if demand grows. We don't know what the demand will be at Zia Station and must wait until pandemic is gone to evaluate that. We can't commit to it yet. We just hope to get back to the former volumes. The Rail Runner is considering how to get more travelers and looking at express routes and reducing the travel time between Albuquerque and Santa Fe, including things like double tracks which would be very expensive, and better times to get more riders. Rio Metro's focus had been to get positive train control and they barely beat the deadline of December 31, 2020. Trains restarted one month ago today. So they haven't looked at that. Positive Train Control is a federal requirement for all trains that alerts the train operator is a problem is detected If the operator ignores it, the control will automatically stop the train. It was designed to prevent accidents.

Councilor Romero-Wirth asked if there was any plan or hope the train would go to the airport.

Mr. Craven said not any serious planning. There are groups and individuals but to route it to the airport is expensive. He explained the route in Albuquerque which would add 40 minutes more in travel time. They pulled out the track at the airport.

Councilor Romero-Wirth asked if Zia will still be a kiss and ride stop.

Mr. Craven said that status was set by the City Council to have no parking at the facility. That is entirely between the City and the developer.

Councilor Romero-Wirth asked Ms. Jenkins if that is contemplated.

Ms. Jenkins said they were open to it and the plan provides modest parking spaces dedicated to ridership – maybe 20-25 spaces, based on the different situations and how much better the intersection would be. It could be considered by Council if interested. It doesn't need to be resolved tonight but it could be contemplated.

Councilor Romero-Wirth opined there is a positive side but it also takes parking spaces for people going to Albuquerque and what that does to density.

Ms. Jenkins estimated somewhere between 20-30 and if Rio Metro has an opinion about it. We do have a potential excess of parking but not dramatically.

Councilor Abeyta asked about the Staff and engineer claims that U-turns are actually safer.

Ms. Jenkins said U turns are always considered safer than left turns onto a busy road.

Councilor Abeyta asked if weekends have changed traffic patterns.

Ms. Jenkins clarified that the TIAs focus on the two peak hours - am and pm. And how the intersection functions in LOS delays at 15-minute increments during those times. Most delays are less than 15 minutes.

Councilor Abeyta asked if bicycling and walking also peak during those times.

Ms. Jenkins said those are more spread out.

Councilor Abeyta said he heard that the traffic concern was only in the morning and not in the afternoon.

Councilor Garcia pointed out that 24 units were proposed on the north side and if everyone had one vehicle, the TIA is only estimating 50 left turns there. He asked if he was understanding that correctly.

Mr. Wrage explained the report more for him.

Councilor Garcia had concerns about the proposed plans. And asked Mr. Jean if he would recommend changes and work with the Applicant or just approve the proposed project.

Mr. Jean said he would work with the Applicant on the concerns and then approve it.

Councilor Garcia asked if we have to have DOT approval for this project to move forward.

Ms. Paez did not think it was required but could be added as a condition of approval.

Councilor Garcia understood the Capshaw property is not vacant but was being used by a school. So it was not just Chaparral down the road.

Mayor Webber did not recall ever seeing any LOS for the intersection now and with the project built.

Ms. Jenkins put that slide up and explained that existing shows C to F at various times of day. This is based on the national engineers parameters. That was used to get the data. With proposed was improved in every circumstance. It eliminated all failures. PM was E and F currently and would go to C, D and E.

Mayor Webber asked what they assumed for car ownership.

Ms. Jenkins said they did not assume reduced ownership but relied on standard data. This probably will have less car ownership but they did not plan on it.

Mayor Webber asked about measures to reduce traffic cut-throughs.

Mr. Thrasher said he looked at where a car would go and what route they would take during delays. Some school trips on the south side would have an uptick but not noticeably going along Candelario. They assumed most drivers would take the closest opportunity to make the U turn and come back. There would not be much cut-through traffic.

Mayor Webber recalled a list on the safety improvements. He was concerned about the underpass.

Ms. Jenkins said they didn't measure pedestrians through the underpass but considered it a great amenity.

Mayor Webber had no more questions.

Building Height and View Corridor Concerns.

Councilor Villarreal said in looking east one could see Albertsons and a big apartment complex and those are in the corridor. She asked how those got approved. Their height feels equal to the height on this development.

Mr. Logston acknowledged that was true. The overlay doesn't address the lay of the land. Just 25' maximum heights. Albertson and the apartment building are on much higher land so the net effect is greater. For Vizcaya Apartments, the height conforms. It is a visual block to the mountains. They both comply with height requirements of the corridor.

Councilor Villarreal tried to visualize being on the Arroyo Chamiso Trail and asked what she would see, looking at the development.

Ms. Jenkins showed a rendering with southwest view to the development at St. Francis Drive.

Councilor Villarreal reasoned that, based on where she was on the trail, it could appear to be one-story or two-stories.

Ms. Jenkins agreed – basically a view of one story at the top.

Councilor Vigil Coppler was trying to recall if the Governing Body approved a variance in the SCHC zone for a building on Pacheco Street.

Mr. Berke thought it was Morningstar. Both Link overlay and SCHC and a code amendment allow the project to qualify.

Councilor Vigil Coppler remembered in that project, there were questions if the SCHC should apply or the Link Overlay. Christus St. Vincent was brought up as a violator. And a building at the brow of the hill, although lower in the ground, was still in violation. It surpassed the 25' and was built that way.

Ms. Jenkins was glad she brought that up. There are interesting parallels when it was determined the Link overlay would prevail because the goals of the Link were more important. Zia Station has those same goals of the Link. The opportunity was here in a private sector development to realize those goals. It is really about priority and the City has repeatedly favored those values.

Councilor Vigil Coppler mentioned another project proposed in Las Soleras that had a planned rail stop there. In a class with Director Ladd, we talked about the perfect opportunity when you have a rail stop and affordable housing for Millennials to get on a bike and use the Rail Runner. That provides a lot more to the City and has an impact on reducing traffic. She agreed that developments built around transportation help greatly. The rentals in Las Soleras are very well priced. There was much discussion about SCHC as well as on Tuesday evening. The City changes and our goals change, and we had that discussion on what the City's real issues are now.

Mayor Webber asked if Ms. Jenkins had a slide on the remaining developable property in that district.

Ms. Jenkins showed the slide and described the legend. The pink was SCHC, and the building just talked about she pointed out. The only undeveloped properties were shown in blue.

Mayor Webber playing devil's advocate, asked Staff about setting dangerous precedents.

Mr. Logston said it was tough to answer because it borders on opinion. The reality is there are not many of them. And if developers would use this project as a precedent. The Planning Commission would look at the specifics of the site and whether it warrants a variance.

Mayor Webber asked if there was any kind of assurance that these are not prejudged or that they would ever become an exception.

Director Isaacson said the Department has a procedure for looking at the site and compatibility with surrounding property. So looking at this one as a precedent he didn't think would be done.

Ms. Jenkins pointed out the corridor is a combination of four corridors. St. Francis, St. Michael's, Old Pecos Trail is primarily residential and I-25 which is unto itself. Rezoning requests are all based on their own merits. The elements for the corridor are very unique.

Mayor Webber said we must be careful not to disturb Old Pecos Trail. We want to be respectful.

Legal Criteria for Rezoning

Councilor Garcia thought this was the crux of the challenge with this proposal. He disagreed with the Land Use Department. If someone on Old Pecos Trail wanted to develop their property, they would just have to meet the criteria of this project. With the SCHC issue, he felt was the process felt rushed. This developer bought this property, knowing these protections were in place and looking at amending the SCHC for it. It puts the Governing Body as the sole approver. It puts us in a place where we cannot support our constituents. He couldn't speak with them without violating ex parte rules. That is wrong. The developer put it in our way. He understood the SCHC needs to be updated and consider what needs to be changed.

Councilor Garcia asked Mr. Logston what we as a City Government needed to go through to amend the plan. How could the Governing Body go through this process differently to update the SCHC?

Mr. Logston suggested we could consider just this one or consider all highway corridors in the City with a public process – whether it is just amending the language or to embed that in the General Plan. The Land Use Department is looking at engaging a more Growth Management Process to update the Code. We can certainly engage the public for this and other corridors on a process to be used to amend them or embed them in the General Plan.

Councilor Garcia thought, given that Santa Fe is in a housing crisis, that this will not be the first challenge and we need to decide how to involve the public and make it a 21st Century plan. He asked why the process was not taken to update the SCHC rather than a back door approach.

Ms. Jenkins said she had a lot of dialogue with City Staff in considering impact of SCHC. It creates a significant challenge. Where we landed was a mass amendment seemed most transparent and straightforward. There was not a lot of discussion on it but it requires Councilor sponsorship, etc. As a property owner, it is not our process but City's.

Councilor Garcia asked Staff if there was ever an intent to amend that.

Director Isaacson explain that property owners have the opportunity to initiate an amendment to the overlay zone for this property or any other. We want the process to be more transparent and have more public input. That is how these policy issues can proceed.

Councilor Garcia wished when the request came forward to trigger the overlay being outdated and how we could fix that. That is the most efficient way to use our time. Housing is critical right now and we want to ensure the barriers can be remedied. He just wished the owner had worked with the Governing Body on amending the SCHC.

Mayor Webber wanted to know if we need to extend past 11:30. (it was 11:21). Or adjourn at 11:30 and schedule another meeting.

Agenda Extension

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Abeyta, to suspend the rules and continue the meeting.

Discussion on the Motion:

Councilor Cassutt-Sanchez was curious, given the special nature, what it means in terms of scheduling, given that we are headed to budget hearings next week.

Mayor Webber said the Governing Body could pick it up later. But there are budget hearings to consider.

Ms. McSherry advised if the Governing Body doesn't continue, you should pick a date certain to continue.

Councilor Abeyta was concerned if we extend it without two councilors present, whether they would have to recuse themselves.

Mayor Webber thought so.

Ms. Paez recalled they agreed than with quasi-judicial, they could review the video, and there is no limitation but could choose to recuse if they desired.

Councilor Villarreal wanted to know what the agenda looks like next week for the Council meeting.

Ms. Bustos-Mihelcic said the agenda is fairly lengthy for the meeting on the 14th with two public hearings. She offered to look for dates. Consent items went through letter p and three items for regular discussion were on that agenda. But it is better than the April 28 agenda.

Ms. Paez added there is an appeal on the 14th also.

Councilor Romero-Wirth said that was a curve ball here. We can't close this, but she was interested in postponing and asking the representatives to meet with the neighborhood association one more time to see if there could be better communication and address what we heard two nights ago. She didn't know what already had been done.

Ms. McSherry said the Governing Body should vote on this motion to extend, no matter what else was decided.

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

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

Against: None.

Mayor Webber said he was ready to continue but asked the pleasure of the Governing Body.

Councilor Romero-Wirth was ready to continue but if the Governing Body decides to postpone and use that time, she was okay with that.

Councilor Cassutt-Sanchez did not see another good option.

Councilor Garcia didn't know how much more discussion there would be on the other topics. He felt it was not a good policy to make a decision at 1 or 2 in the morning.

Councilor Vigil Coppler said the intent of her motion was to carry on. We need some timelines and interpret "reasonable." We should stick to the topics.

The Governing Body went back to Legal Questions.

Ms. Paez noted that Ms. Jenkins could not just ask for a sponsor to overhaul the SCHC. It would be pretty awkward and is problematic, however. Anyone can propose revised text as amendments to the ordinance but that has to be outside this case. That could have been done but it would be difficult to separate the code amendment from this case.

Councilor Romero-Wirth was curious about the way to change the overlay. It would require one of us to sponsor. She asked if it would be quasi-judicial or not.

Mr. Berke said if the Governing Body wanted to amend, they would pass a resolution to direct Staff to do a draft.

Ms. Paez added that an overall revision of land Use Code would require it. It is a little tricky and procedures depend on the nature of the case in a larger public engagement process.

Councilor Romero-Wirth explained she was asking in the context of this project how we go about doing it. What is clear on this project is that we have not developed a process for the public on using Affordable Housing and she needed to understand what we value and the tradeoffs. She was asking it separate from this case but related. We do not have the public understanding now.

Councilor Cassutt-Sanchez asked about the rezoning vs Chapter 14.

Mr. Logston was not sure he understood the question.

Councilor Cassutt-Sanchez said she was asking about the Planning Commission question on the General Plan and Chapter 14. And how they relate to each other.

Mr. Logston said the General Plan sets themes and guidelines for us and in Chapter 14, the SCHC is the result of those policies and goals of the General Plan. None of the highway corridors are mentioned by name in the General Plan and land use map. At its heart, this is a rezone request.

Ms. Paez added that the General Plan is a comprehensive plan for the whole city and has a Land Use Map. To Councilor Romero-Wirth's point, it was last overhauled in 1999. When we choose to change a zoning on a

property, we do have a specific process and specific criteria that apply. The first criterion takes into account the use. It is where a lot of this comes in. To amend, takes account of three conditions – whether there was a mistake; there has been a change in the neighborhood area; third is for a different use category that is more beneficial to the community. That is where we can use all of those, and ask if there is a justification using those criteria.

Councilor Cassutt-Sanchez asked Mr. Berke how long the last one took.

Mr. Berke said it took 14 months and the map took four years.

Councilor Abeyta asked if we are setting precedent on that with these cases.

Mr. Berke said Staff was not aware of any other such request, but didn't think this would set a precedent.

Councilor Romero-Wirth – how many highway overlay districts do we have?

Director Isaacson mentioned four cases.

Councilor Romero-Wirth pointed out that process would allow much more public input.

Director Isaacson agreed 100%.

Ms. Paez displayed the criteria in the Code for rezoning and read them aloud. She said it is up to the Governing Body to decide if they have met the criteria.

Other issues

Councilor Cassutt-Sanchez asked about maintaining open space.

Ms. Jenkins said all the open space will be privately maintained and the City has no obligation for that.

Councilor Villarreal asked Mr. Berke about what the Code said in the criteria about preserving open space and continuity. To her, it seemed to be about gateway.

Ms. Paez agreed. It is the first criterion – as seen from major highway entrances to the City.

Councilor Villarreal reasoned it was not from Zia. Mr. Berke agreed.

Councilor Villarreal observed that height would impede a view of the mountains. It is about someone driving from the highway through a City entrance. But if driving, they should not be looking around but focus on the street. Her point was we are not talking about neighborhood perspective.

Her other random question was who maintains the parking garage.

Ms. Jenkins said the parking structures are private. There will be spaces assigned for various purposes and they have not fully developed the parking areas. Consultants will help with managing the parking and spaces paid for like at the Convention Center. They will always make sure adequate parking is maintained and sufficient parking for residential tenants. There will be some revenue, some open parking and some reserved parking.

Councilor Villarreal asked if it included business reservations.

Ms. Jenkins agreed. When paying rent, a portion goes for parking. For residents, a portion of rent goes toward parking space. It was not a separate fee.

Councilor Villarreal said if they were considering prohibiting STR.

Ms. Jenkins said there was no intention for STR and would welcome such a restriction.

Councilor Romero-Wirth asked Ms. Jenkins about her work with the neighborhood.

Ms. Jenkins said work with the neighbors started in early 2000 prior to Jenkins-Gavin involvement when Merritt Brown put it under contract after the pumice plant closed. Then the community rail corridor study in 2008 identified it as a potential rail stop. Everything was on pause until legal issues were resolved and station could open in 2017.

In early 2019, Mr. Brown and his team reached out to bring it back in. based on current market conditions, the Rail Runner, etc. and started meeting with neighborhood residents in 2019. At that point we were talking about residential on the north side. The program had changed dramatically. Almost 400,000 sq. ft. of commercial space and we reduced that well down. They had three informal meetings while developing the site plan and came back with more detail; They did traffic counts and analysis of the Zia intersection, and started to understand what road improvements would be needed. The meeting talked about the corridor and height. We heard no four-story buildings would be acceptable. We had no plans for four-story

and majority at 2- story and only transition to 3-story as we get closer to St. Francis.

Then they went back to the drawing board for further details, traffic analysis and survey in early 2020 and two formal ENNs where they came back a second time with answers to the questions received. The Association declined a third meeting, but they reached out to dialogue with individual neighbors.

There did not seem to be a lot of welcome viewpoints and was what they heard at Tuesday's meeting. She heard the feedback about no four-stories, about corridor, about architectural tradition style, and another safe crossing of Zia. Sidewalk improvement and traffic was primary. They eliminated all of those conditions and reduced the line of cars approaching St. Francis on Zia – a dramatic improvement and triple right lanes. It improved the St. Francis backups.

Councilor Romero-Wirth asked if she was meeting with the Association or a different group.

Ms. Jenkins said she was working with everyone. She notified all residents within 300 feet including the neighborhood association within 300 feet. Candlelight got their own notice too. The first was in person and first ENN was in person with a sign-in sheet. The Candlelight NA notified all of their members. And any person who signed in were added to the mailing list. At each meeting, the new members were also added.

Councilor Romero-Wirth asked why there were such strong feelings against this development.

Ms. Jenkins found it curious too. She wondered if she didn't explain it enough or if they didn't understand the traffic improvement. That was frustrating. She thought it came down to being a change and what that would mean. It felt like at a certain point, maybe the third neighborhood meeting, where she wanted to hear from them about suggested changes to consider. She didn't hear a lot of that.

Councilor Romero-Wirth asked Ms. Paez to describe the due process rights for parties involved in this and whether due process rights were being violated.

Ms. Paez said we have a landowner who applied for a permit from the City. The landowner on a process like this always has a due process right as described in New Mexico law. But there are also rights for neighborhood citizens who have not paid an application fee. So due process for

nonlandowners is provided by law for them. And if there is an appeal, separate laws apply. They have equal time rights in an appeal.

Councilor Romero-Wirth's last question was to Ms. Jenkins. The other night there was a discussion about the construction timeline of 6-10 years. Can you talk about that? This is a huge project but why couldn't it be done faster?

Ms. Jenkins said she would love for it to be faster. The first phase is 18 months and while that is done, all roadways would be constructed. That is pretty quick. The sales phase is more market-driven and that time depends on market conditions. We have huge confidence. The roadways have to come before any marketing effort gets underway. Maybe one or two buildings can start right away. There is a good possibility the south side could finish out in five to six years - ten years at the outside but she didn't expect it to last that long.

Councilor Romero-Wirth went back to a question asked earlier on balance of commercial vs residential.

Ms. Jenkins said it is about that balance for residential to support the commercial. Mixed use is really dependent on residential. This is a rare opportunity to have both. We need a critical mass for mixed use feasibility. Even with the pandemic, people still want office space, but a different kind. It is not a big office park, but more a suburban model. There may be those who are working at home that now want to have an office. We are confident that kind of office space will be sought.

Mayor Webber noticed Councilor Romero-Wirth has talked about it as Councilor Garcia has – a lingering after effect on balance and tradeoffs. Not about change but loss on look, feel and character as a Santa Fe brand. How do you respond to criticism that you would provide housing but lose the essence of Santa Fe?

Ms. Jenkins said the essence of Santa Fe is people, not buildings. It is about community and here is still a lot of good stuff in the General Plan. Like more walkability, more AH, more walks to transit. And we have an opportunity here to realize all of them. "Architecture is critically important and we have four architects. Pull off stucco and we have brick Victorian is what I work in. We have incorporated all the elements – some very traditional and some with more contemporary materials. It will feel like Santa Fe absolutely but what makes it special are the people."

Mayor Webber closed the question & answer period at 12:56 a.m.

ACTIONS OF THE GOVERNING BODY

a) Case #2020-2898 North Zia GPA

MOTION: Councilor Cassutt-Sanchez moved, seconded by Councilor Vigil Coppler, to approve Case #2020-2898 North Zia GPA.

Discussion on the Motion

Councilor Garcia thought there were a couple of conditions for item C to consider.

Ms. Paez suggested any conditions like the Short-Term Rentals should be carried by the zoning. (4th case on the agenda). The other condition should be on the final case (Development Plan) such as affordable housing.

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) Case #2020-2914 South Zia GPA

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Villarreal, to approve Case #2020-2914 South Zia GPA 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.

c) Case #2020-2900 Zia SCHC Rezone

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Lindell, to approve Case #2020-2900 Zia SCHC Rezone 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 Vigil Coppler, and Councilor Villarreal.

Against: Councilor Romero-Wirth.

d) Case #2020-2899 Zia PUD Rezone

MOTION: Councilor Cassutt-Sanchez moved, seconded by Councilor Villarreal, to approve Case #2020-2899 Zia PUD Rezone as amended with Short Term Rental uses prohibited.

Discussion on the Motion:

Councilor Romero-Wirth noted there were other conditions that she wrote down, including, a 500-year storm event; the Developer's commitment to work with New Mexico Gas Company on erosion control, and a condition of approval if commercial was changed to housing. She didn't know where they fit in.

Ms. Paez recommended they all be in the development plan (next case). Zoning is more about uses. For the last one on conversion of commercial to residential, nothing was wrong but is already in the Code.

Councilor Garcia added the condition for NMDOT approval.

Ms. Paez said that one also should be in the Development Plan motion.

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

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

Against: Councilor Romero-Wirth.

e) Case #2020-3901 Zia Preliminary Development Plan.

MOTION: Councilor Villarreal moved, seconded by Councilor Vigil Coppler, to approve the Zia Development Plan in Case #2020-2901 as amended with the following conditions: that the arroyo be stabilized, using the 500-year storm event standard; that the approval of the traffic management plan be secured from

the NMDOT, and that any change in the HOMES program would require Governing Body approval.

Discussion on the Motion

Ms. Paez thought the NMDOT approval was for the HAWK signalized pedestrian crossing.

Councilor Garcia said it was broader than that. It was to address all concerns raised by NMDOT.

Mr. Berke pointed out that NMDOT approval is already required already for doing any work within certain corridors. The Plan would stipulate the number of units in there so that amendment is not needed.

Councilor Romero-Wirth suggested the first should say to work with relevant parties on the erosion prevention.

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

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

Against: Councilor Romero-Wirth.

6. **ADJOURN**

Having completed the agenda and with no further business to come before the Governing Body, the meeting was adjourned at 1:14 a.m.

Approved by:

Mayor Alan Webber

ATTESTED TO:

Kristine M. Mihelcic, City Clerk

Respectfully submitted by:

Carl G. Boaz, Council Stenographer

City of Santa Fe
Governing Body
Findings of Fact and Conclusions of Law

Case #2020-2900
Zia Station South Central Highway Corridor Protection District Rezoning

Owner's/Applicant's Name – Zia Station, LLC
Agent's Name – JenkinsGavin, Inc.

THIS MATTER came before the Governing Body (Governing Body) for public hearing on April 6, 2021 and April 8, 2021 (Hearing) upon the application (Application) of JenkinsGavin, Inc. as agent for Zia Station, LLC (Applicant).

I. INTRODUCTION

The Application pertains to properties located at the northwest and southwest corners of St. Francis Drive and Zia Road (Properties). The Applicant seeks a rezoning to amend the boundaries on the Official Zoning Map of the South Central Highway Corridor Protection District (SCHC) to exclude two properties from the Overlay District. The Properties total approximately 22.7 acres and are within the South Central Highway Corridor Protection District (SCHC).

In related Case #2020-2898, the Applicant requests a general plan amendment for a property located at the northwest corner of St. Francis Drive and Zia Road, to change the Future Land Use Designation from Low Density Residential (3 to 7 dwelling units per acre) to High Density Residential (12 to 29 dwelling units per acre).

Additionally, in related Case #2020-2914, the Applicant seeks a general plan amendment for a property at the southwest corner of St. Francis Drive and Zia Road, to change the Future Land Use Designation from Low Density Residential (3 to 7 dwelling units per acre) to Transitional Mixed Use.

Additionally, in related Case #2020-2899, the Applicant seeks a rezoning from R-1 (Residential-one dwelling unit per acre) to C-2 PUD (General Commercial - Planned Unit Development) for properties located at the northwest and southwest corners of St. Francis Drive and Zia Road.

Finally, in related Case #2020-2901, the Applicant seeks preliminary development plan approval for a mixed-use Planned Unit Development to be developed in two phases for two properties at the northwest and southwest corners of St. Francis Drive and Zia Road.

After conducting a public hearing and having heard from staff and all interested persons, the Governing Body hereby FINDS, as follows:

II. FINDINGS OF FACT

A. Background: Property History

1. In 2001, SF Brown Ltd. Company, managing partner in Zia Station, LLC (Applicant) entered into an agreement to purchase the 8.34-acre pumice plant property at the southwest corner of St. Francis drive and Zia Road.
2. On January 14, 2004, the Governing Body approved Resolution No. 2004-4, changing the future land use designation of the property that the northwest corner of St. Francis and Zia Road from Open Space to Low Density Residential (3 to 7 dwelling units per acre), and the property at the southwest corner from Park and Open Space to Transitional Mixed-Use, with a small portion changing to Low Density Residential (together, the Project).
3. At that time, the Applicant stated an intention to request a rezoning in the future to develop the northern property at approximately R-5 (Residential- five dwelling units per acre) or R-7 (Residential- seven dwelling units per acre), and to request a rezoning to C-2 PUD (General Commercial- Planned Unit Development) to develop the southern property as a mixed use development.
4. In 2005, SF Brown Ltd. Company closed on the purchase of pumice plant.
5. In 2007, the pumice plant was demolished.

B. Background: City Planning Efforts Related to Commuter Rail

6. On September 10, 2003, the Governing Body passed Resolution No. 2003-70, unanimously supporting the effort to establish a commuter rail line between Albuquerque and Santa Fe.
7. On November 14, 2007, the Governing Body passed a follow-up Resolution No. 2007-102, reaffirming the City's commitment to commuter rail and identifying concerns to be resolved.
8. On December 13, 2007, the Santa Fe Metropolitan Planning Organization (MPO) Transportation Policy Board approved the location of the Rail Runner Express Station at Zia Road.
9. NMDOT built the Zia Station platform prior to the commencement of Rail Runner service between Albuquerque and Santa Fe in 2008.
10. In 2008, the City of Santa Fe Long Range Planning Division prepared the Rail Corridor Strategic Plan, which identified Zia Station as the "Gateway to Santa Fe" and recommended a mixed-use, transit and pedestrian oriented development at the site consisting of up to three-story buildings. This Plan and its recommendations were not formally adopted by the City's Governing Body or incorporated into the City's General Plan.
11. On March 14, 2011, City and MPO staff conducted a public input meeting to discuss the opening of the Zia Station platform for rail service as a "kiss and ride" station. MPO staff presented a conceptual plan to show how pedestrian, bicycle, transit, and automobile access could be accommodated at the site. A majority of the 250 people present expressed a desire for the Zia Station platform to open.
12. On August 30, 2011, the Governing Body adopted Resolution No. 2011-44, recognizing the need for additional capital improvements in order to open the Zia Station platform.
13. On August 13, 2015, the City entered into an Impact Fee Credit Agreement with the Applicant for the Applicant to receive impact fee credits in exchange for constructing "kiss and ride"

(passenger drop off only) improvements to the Zia Station platform area. The Agreement was filed with the records of the City Clerk as Item #15-0511.

14. The Applicant completed the "kiss and ride" improvements to the Zia Station platform area in 2017.
15. In April 2017, Rail Runner service became available at the at Zia Station platform.

C. Background: Procedural History

16. Santa Fe City Code (SFCC) Section 14-3.2(D)(1) provides that an application for amendments to the general plan may be considered concurrently with an application for rezoning.
17. SFCC Section14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [SFCC §14-3.l(E)]; (b) an Early Neighborhood Notification (ENN) meeting [SFCC §14-3.1(F)(2)(a)(iii)]; and (c) compliance with notice and public hearing requirements [SFCC §14-3.1(H)-(I)].
18. A pre-application conference was held on February 6, 2020 in accordance with SFCC Section 14-3.l(E)(1).
19. Pursuant to SFCC Section 14-3.1(H), notice of the ENN meeting was properly given.
20. Pursuant to SFCC Section 14-3.1(F), a virtual ENN meeting was held on the Application on October 29, 2020. The ENN meeting was attended the Project team, members of City staff, and approximately 90 members of the public. Residents voiced concerns about traffic impacts, building height and visual impacts to the skyline, project density, loss of open space, and impacts to their neighborhood and property values. Skepticism was expressed about the TIA results, and that suggested road improvements could handle traffic presumed to be generated by the project. Residents stated that it was difficult for them to evaluate the project before receiving actual application materials, but staff pointed out that under the SFCC, the ENN always takes place before submission of an application. The President of the Candlelight Neighborhood Association requested that another ENN be held for the project.
21. The Applicant held one more, informal virtual meeting to answer additional questions on November 12, 2020.
22. City staff held one more, informal virtual meeting with residents on November 16, 2020, after residents had an opportunity to review the submitted application materials. Questions for staff were largely procedural in nature, although there were questions about the specific details of the project. Staff asked residents to summarize their questions and submit them to staff for follow up. Only one resident did this, submitting a detailed traffic analysis.
23. Pursuant to SFCC Section 14-3.2(D)(1), city staff reviewed the rezoning application, along with the related materials and information submitted by the Applicant, for conformity with applicable SFCC requirements (Submittal Requirements) and provided the Planning Commission with a written report of its findings (Staff Report), which evaluates the factors relevant to the application.
24. Staff recommended that the Planning Commission (Commission) should recommend that the Governing Body approve the rezoning.
25. Pursuant to SFCC Section 14-2.3(C)(7)(c) and Section 14-3.5(B)(1), the Commission has the authority to review and make recommendations to the Governing Body regarding rezonings.
26. Pursuant to SFCC 14-3.5(B)(2)(a), "[a]ll proposed rezonings shall be submitted to the planning commission for review and recommendation at a public hearing."

27. The Commission conducted a public hearing over the course of two meetings held February 4, 2021, and February 18, 2021.
28. The meeting minutes reflect that approximately forty-six (46) members of the public provided sworn public comment at the February 4, 2021 Commission meeting.
29. The record before the Governing Body reflects that approximately forty-two (42) individuals and one neighborhood association provided written public comment for the Commission's consideration at the public hearing.
30. On February 18, 2021, a majority of the Commission voted to recommend that the Governing Body approve the rezoning; two members of the Commission did not concur with the majority vote.
31. On March 4, 2021, the Commission adopted written Findings of Fact and Conclusions of Law reflecting its recommendation.

D. Rezoning: Request to Amend the Boundaries of the SCHC

32. At a hearing conducted over the course of two special meetings held April 6, 2021, and April 8, 2021, the Governing Body considered the application in this case concurrently with the applications in Case Nos. 2020-2898, 2020-2914, 2020-2899, and 2020-2901.
33. Approximately thirty-nine (39) members of the public submitted written public comments in advance the written comment deadline of 1:00 p.m. on April 6, 2021, as set forth on the published meeting agenda.
34. At the April 6, 2021 meeting, the Governing Body received reports from staff, sworn testimony and evidence from the Applicant, and sworn testimony offered by interested members of the public.
35. Approximately forty-four (44) members of the public provided sworn public testimony at the April 6, 2021 meeting, and members of the Governing Body asked follow-up questions of some members of the public and allowed them to further testify and respond.
36. At the April 8, 2021 meeting, the Governing Body asked questions of city staff and the Applicant, and conducted discussion and deliberation prior to making a decision.
37. In this case, the Applicant seeks to amend the boundaries of the South Central Highway Corridor to exclude the Properties from the overlay district.
38. On June 25, 1986, the Governing Body adopted Ordinance No. 1986-25, creating the South Central Highway Corridor Protection District (SCHC), for the purposes of establishing and maintaining a clear sense of visual openness and continuity of development, as seen from major highway entrances" to the City. SFCC § 14-5.5(A)(1)(a). The SCHC does this by regulating allowed landscaping, encouraging architectural style and scale that is representative of Santa Fe, establishing setbacks, limiting density to 21 dwelling units per acre, and limiting building height to 25'. *See* SFCC § 14-5.5(A).
39. SFCC Section 14-5.1 explains that overlay districts "are intended to apply in combination with the underlying zoning districts" and that overlay rezoning cases are governed by the general requirements set forth in SFCC Section 14-3.5, which apply to all rezonings, plus any additional rezoning requirements established by SFCC Section 14-5.
40. Pursuant to SFCC Section 14-3.5(A)(1)(d), any person may submit a written request for rezoning, along with all submissions required by the SFCC Chapter 14 and any other information requested by the land use director as reasonably necessary to determine compliance with Chapter 14 (Submittal Requirements).

41. Pursuant to SFCC Section 14-2.2(A) and Section 14-3.5(B)(2), and Table 12-2.1-1, the Governing Body has the authority to review and approve rezonings.
42. SFCC Section 14-3.5(B) sets out procedures for rezoning and requires the Commission to hold a public hearing, review the Application, and make a recommendation to the Governing Body.
43. SFCC Section 14-3.5(C) sets out approval criteria and requires the Governing Body to make complete findings of fact sufficient to show that these criteria have been met before approving a rezoning.
44. Pursuant to SFCC Section14-3.5(C)(1)(a)(i), the Governing Body finds that the rezoning is justified because implementation of the SCHC Overlay District is complicated by the fact that the City did not make accommodations for current and intended future uses on individual tracts within the SCHC Overlay when it was adopted, as it has when adopting other plans.
45. Pursuant to SFCC Section14-3.5(C)(1)(a)(ii), the Governing Body finds that the rezoning is justified because the surrounding area has changed, in that the St. Francis corridor has developed into a dense, mixed-use corridor since the SCHC was adopted. The establishment of commuter rail at the site is a significant change, and City planning efforts have repeatedly called for some level of mixed-use development at the site. The 25' height restriction of the SCHC will prevent the three-story residential density required to create a transit-focused development that will capitalize on the public investment in commuter rail.
46. Pursuant to SFCC Section14-3.5(C)(1)(a)(iii), the Governing Body finds that the rezoning is justified in that the proposed land uses for Zia Station align with General Plan Themes and Policies, such as Affordable Housing, Transportation Alternatives, Economic Diversity, Urban Form/Higher Densities, Community Oriented Development, and Mixed-Use.
47. Pursuant to SFCC Section 14-3.5(C)(1)(b), the Governing Body finds that all the rezoning requirements of Chapter 14 have been met.
48. Pursuant to SFCC Section 14-3.5(C)(1)(c), the Governing Body finds that the Zia Station proposal generally aligns with General Plan Themes and Policies. With respect to the future land use map, the Applicant has requested the required general plan amendments in the related cases considered concurrently with this case. The proposed exclusion of the subject property from the SCHC is consistent with previous actions of the City to implement the guiding development principles identified in the General Plan, such as mixed-use, infill, affordable housing, multi-modal transportation, and economic diversification at a commuter rail station. General Plan policies and resulting City ordinances allow for height above two stories elsewhere in the City, primarily in the Business Capitol District (BCD), where heights up to 56 feet are allowed in one sub-district and heights of 36 feet are allowed in several of the sub-districts. The proposed rezoning is consistent with the Transitional Mixed-Use future land use designation and multiple City studies and plans, including the Amended Draft Rail Corridor Study: Transit Oriented Development for Santa Fe's Rail Corridor Neighborhoods, created by the City of Santa Fe Long Range Planning Division in 2008, which recommended that heights of up to three-stories could be appropriate at Zia Station.
49. Pursuant to SFCC Section 14-3.5(C)(1)(d), the Governing Body finds that the property is of sufficient size for rezoning, is located in an area the General Plan designated as both infill and future growth, and that the height limitation of the SCHC will prevent proper capitalization on public investment in commuter rail.
50. Pursuant to SFCC Section 14-3.5(C)(1)(e), the Governing Body finds that the existing and proposed infrastructure will be able to accommodate or can be modified to accommodate the

impacts of the proposed development. Furthermore, the subject properties are adjacent to the Rail Trail and the Zia Rail Runner Station, providing a unique opportunity to maximize the benefits of this key piece of public infrastructure with the establishment of a transit-focused development.

51. Pursuant to SFCC Section 14-3.5(C)(2)(a), the Governing Body finds that the character of the St. Francis corridor has changed over time. Multi-family housing is plentiful along the southern St. Francis corridor, especially on the east side. To the north, the LINC Overlay recognizes the need for increased height to provide density that will support walkable, mixed-use neighborhoods.
52. Pursuant to SFCC Section 14-3.5(C)(2)(b), the Governing Body finds that at approximately 22.7 acres, the proposed rezoning is well over the two acre threshold.
53. Pursuant to SFCC Section 14-3.5(C)(2)(c), the Governing Body finds that the proposed rezoning will not benefit one or a few landowners at the expense of the surrounding landowners or the general public. The public will be served by development that will see adequate return on and maximize the benefit of significant public investment in multi-modal transportation infrastructure at the Zia Rail Runner Station and the Rail Trail.
54. Pursuant to SFCC Section 14-3.5(D)(1), the Governing Body finds that the proposed additional density can be accommodated by the existing and proposed road infrastructure improvements.
55. Pursuant to SFCC Section 14-3.5(D)(2), the Governing Body finds that the developer will cooperate and participate wholly or in part with any applicable costs of construction in addition to impact fees. The Applicant will make road improvements both on and off-site as required to support the proposed development.

E. Vote at the Hearing

56. The following member of the Governing Body did not concur with the majority vote of the Governing Body: Councilor Carol Romero-Wirth.
57. The following members of the Governing Body were not present for the hearing and did not participate in the decision: Councilor Signe Lindell and Councilor Christopher Rivera.

III. CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Governing Body CONCLUDES as follows:

General

1. Pursuant to SFCC Section 14-3.1, all procedural requirements regarding the pre-application conference, ENN meeting, and notice of public hearing have been met.

Rezoning

2. The Applicant has the right under the SFCC to propose the rezoning of the Property.
3. The Governing Body has the power and authority at law and under the SFCC to review and approve the proposed rezoning.
4. The Applicant met the applicable Submittal Requirements.

5. The Governing Body should approve the requested rezoning because all applicable code requirements and criteria for approval of the proposed rezoning have been met.

WHEREFORE, IT IS ORDERED ON THE 28TH DAY OF APRIL 2021 BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Considering the foregoing findings and conclusions, the Governing Body approves the rezoning, as requested in the Application for Case #2020-2900.

Alan M. Webber
Mayor

May 5, 2021
Date

FILED:

Kristine Bustos-Mihelcic
City Clerk GB MTG 04-28-21

May 5, 2021
Date

APPROVED AS TO FORM:

Erin K. McSherry
City Attorney

Apr 29, 2021
Date

2020-2900_Zia SCHC Rezoning_GB_FOFCOL_DRAFT

Final Audit Report 2021-04-29

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ITEM #51-C

ity of Santa Fe
Converting Body
Findings of Fact and Conclusions of Law

Case #2020-2901
Zia Station Preliminary Development Plan

Owner's\Applicant's Name – Zia Station, LLC

Agent's Name – JenkinsGavin, Inc.

THIS MATTER came before the Converting Body (Converting Body) for public
6, 2021 and April 8, 2021 (Hearing) upon the application (Application) of Jenk
agent for Zia Station, LLC (Applicant).

I. INTRODUCTION

The Application pertains to properties located at the northwest and southwest cor
Drive and Zia Road, totaling approximately 55.7 acres (Properties). The A
preliminary development plan approval for a mixed-use Planned Unit De
developed in two phases (Project). The Planned Unit Development will
approximately 484 dwelling units, 84,000 square feet of office space, and 30,0
restaurant\retail space. The Application includes a request for approval of an
design. The properties are zoned R-1 (Residential- one dwelling unit per acre),
South Central Highway Corridor Protection District (SCHC).

In related Case #2020-858, the Applicant requests a general plan amendme
located at the northwest corner of St. Francis Drive and Zia Road, to change the
Designation from Low Density Residential (3 to 7 dwelling units per acre)
Residential (15 to 25 dwelling units per acre).

Additionally, in related Case #2020-S-164, the Applicant seeks a general plan
property at the southwest corner of St. Francis Drive and Zia Road, to change the
Designation from Low Density Residential (3 to 7 dwelling units per acre) to T
Use.

Additionally, in related Case #2020-858, the Applicant seeks a rezoning from
one dwelling unit per acre) to C-3 VUD (General Commercial- Planned Unit
properties located at the northwest and southwest corners of St. Francis Driv

Finally, in related Case #2020-S-008, the Applicant seeks a rezoning to amend
the Official Zoning Map of the South Central Highway Corridor Protection D
exclude two properties at the northwest and southwest corners of St. Francis D
from the Overlay District.

After conducting a public hearing and having heard from staff and all interes
Converting Body hereby FINDS, as follows:

C

II. FINDINGS OF FACT

A. Background: Procedural History

1. SFCC Section14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [SFCC § 14-3.l(E)]; (b) an Early Neighborhood Notification (ENN) meeting [SFCC §1 4-3.1(F)(2)(a)(iv)]; and (c) compliance with notice and public hearing requirements [SFCC § 14-3.1(H)-(I)].
2. A pre-application conference was held on February 6, 2020 in accordance with SFCC Section 14-3.l(E)(1).
3. Pursuant to SFCC Section 14-3.1(H), notice of the ENN meeting was properly given.
4. Pursuant to SFCC Section 14-3.1(F), a virtual ENN meeting was held on the Application on October 29, 2020. The ENN meeting was attended the Project team, members of City staff, and approximately 90 members of the public. Residents voiced concerns about traffic impacts, building height and visual impacts to the skyline, project density, loss of open space, and impacts to their neighborhood and property values. Skepticism was expressed about the TIA results, and that suggested road improvements could handle traffic presumed to be generated by the project. Residents stated that it was difficult for them to evaluate the project before receiving actual application materials, but staff pointed out that under the SFCC, the ENN always takes place before submission of an application. The President of the Candlelight Neighborhood Association requested that another ENN be held for the project.
5. The Applicant held one more, informal virtual meeting to answer additional questions on November 12, 2020.
6. City staff held one more, informal virtual meeting with residents on November 16, 2020, after residents had an opportunity to review the submitted application materials. Questions for staff were largely procedural in nature, although there were questions about the specific details of the project. Staff asked residents to summarize their questions and submit them to staff for follow up. Only one resident did this, submitting a detailed traffic analysis.
7. Pursuant to SFCC Section 14-3.2(D)(1), city staff reviewed the preliminary development plan application, along with the related materials and information submitted by the Applicant, for conformity with applicable SFCC requirements (Submittal Requirements) and provided the Planning Commission with a written report of its findings (Staff Report), which evaluates the factors relevant to the application.
8. Staff recommended that the Commission should recommend that the Governing Body approve the preliminary development plan and innovative street design, subject to conditions of approval and the technical corrections set forth in the Staff Report and exhibits.
9. The Commission conducted a public hearing over the course of two meetings held February 4, 2021, and February 18, 2021.
10. The meeting minutes reflect that approximately forty-six (46) members of the public provided sworn public comment at the February 4, 2021 Commission meeting.
11. The record before the Governing Body reflects that approximately forty-two (42) individuals and one neighborhood association provided written public comment for the Commission's consideration at the public hearing.

12. On February 18, 2021, a majority of the Commission voted to recommend that the Governing Body approve the preliminary development plan and innovative street design; two members of the Commission did not concur with the majority vote.
13. On March 4, 2021, the Commission adopted written Findings of Fact and Conclusions of Law reflecting its recommendation.

B. Development Plan

14. At a hearing conducted over the course of two special meetings held April 6, 2021, and April 8, 2021, the Governing Body considered the application in this case concurrently with the applications in Case Nos. 2020-2898, 2020-2899, 2020-2900, and 2020-2914.
15. Approximately thirty-nine (39) members of the public submitted written public comments in advance the written comment deadline of 1:00 p.m. on April 6, 2021, as set forth on the published meeting agenda.
16. At the April 6, 2021 meeting, the Governing Body received reports from staff, sworn testimony and evidence from the Applicant, and sworn testimony offered by interested members of the public.
17. Approximately forty-four (44) members of the public provided sworn public testimony at the April 6, 2021 meeting, and members of the Governing Body asked follow-up questions of some members of the public and allowed them to further testify and respond.
18. At the April 8, 2021 meeting, the Governing Body asked questions of city staff and the Applicant, and conducted discussion and deliberation prior to making a decision.
19. Under SFCC Section 14-3.8(B)(3)(a), a new development with a gross floor area of thirty thousand (30,000) square feet or more requires approval of a development plan.
20. Under SFCC Section 14-3.8(B)(3)(b), a new development with a gross floor area of ten thousand (10,000) square feet in the C-2 zone requires a development plan.
21. Pursuant to SFCC Section 14-5.7(C)(1), an application for PUD rezoning must be accompanied by a preliminary development plan.
22. Pursuant to SFCC Sections 14-2.2(A), 14-3.8(C)(2)(a), 14-3.5(B)(2), and 14-5.7(C)(1), and Table 12-2.1-1, the Governing Body has the authority to review and approve preliminary development plans associated with C-2 PUD rezoning applications.
23. SFCC Section 14-3.8 establishes certain procedures for development plan approval including, without limitation, a public hearing and a decision based on the criteria set out in SFCC Section 14-3.8(D).
24. SFCC Section 14-3.8(C)(1) requires the Applicant to submit plans and other documentation that demonstrates conformance with applicable provisions of the SFCC (Submittal Requirements).
25. SFCC Section 14-3.8(D)(1) sets out approval criteria and requires the Governing Body to make complete findings of fact sufficient to show that these criteria have been met before approving a development plan.
26. Pursuant to SFCC Section 14-3.8(D)(1)(a), the Governing Body finds that it has the authority to review the preliminary development plan under SFCC Sections SFCC Sections 14-2.2(A), 14-3.8(C)(2)(a), 14-3.5(B)(2), and 14-5.7(C)(1), and Table 12-2.1-1.
27. Pursuant to SFCC Section 14-3.8(D)(1)(b), the Governing Body finds that the preliminary development plan will not adversely affect the public interest. The Governing Body has implemented the General Plan and ordinances to establish minimum standards for health,

safety and welfare affecting land uses and developments as a means to protect the public interest. This project serves the public interest through the provision of much-needed housing proximate to multi-modal transit options and public trails.

28. Pursuant to SFCC Section 14-3.8(D)(1)(c), the Governing Body finds that the use and any associated buildings are compatible with and adaptable to buildings, structures, and uses of the abutting property and other properties in the vicinity of the premises under consideration. The subject property is located in a mixed-use area comprising significant commercial and multi-family development. The proposed uses and scale of the project is compatible with land uses in the vicinity, while serving as an appropriate transition between the adjacent existing residential development and the St. Francis corridor.
29. Pursuant to SFCC Section 14-3.8(D)(2), the Governing Body "may specify conditions of approval that are necessary to accomplish the proper development of the area and to implement the policies of the general plan."
30. The Governing Body finds that the conditions of approval and technical corrections set forth in the Staff Report and exhibits are necessary to accomplish the proper development of the area and to implement the policies of the general plan.
31. At the Hearing, the Applicant agreed to four additional conditions of approval, as follows: (1) the Applicant shall use 500-year storm event modeling when determining the final design for arroyo bank stabilization measures; (2) the Applicant shall assist with coordinating the efforts of the City, the New Mexico Gas Company, and any other relevant parties to mitigate erosion and other issues associated with the natural gas line, which is located off-site (not on the Applicant's property); (3) any amendments to the Santa Fe Homes Program Agreement for the project shall be presented to the Governing Body for review and approval; and (4) the New Mexico Department of Transportation shall approve the final placement, design, and operation of the HAWK pedestrian crossing and any work or improvements within the State of New Mexico's right-of-way.
32. The Governing Body finds that the four additional conditions agreed to at the hearing are necessary to accomplish the proper development of the area and to implement the policies of the general plan.
33. Pursuant to SFCC Section 14-9.2(B)(3), the Governing Body may consider and approve an innovative street design that is not included among the street types and street sections shown or described in SFCC Section 14-9.2 if the innovative street design provides adequate pedestrian and bicycle facilities, as well as necessary transit facilities.
34. The Governing Body finds that the Applicant's proposed innovative street design should be approved because it furthers the intent of SFCC Section 14-9.2 and provides adequate pedestrian and bicycle facilities, as well as necessary transit facilities.

C. Vote at the Hearing

35. The following member of the Governing Body did not concur with the majority vote of the Governing Body: Councilor Carol Romero-Wirth.
36. The following members of the Governing Body were not present for the hearing and did not participate in the decision: Councilor Signe Lindell and Councilor Christopher Rivera.

III. CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Governing Body CONCLUDES as follows:

General

1. Pursuant to SFCC Section 14-3.1, all procedural requirements regarding the pre-application conference, ENN meeting, and notice of public hearing have been met.

Development Plan

2. Pursuant to SFCC Section 14.5-7(C)(1), a preliminary development plan must accompany a request for C-2 PUD rezoning.
3. The Governing Body has the authority to review and approve the preliminary development plan, including the proposed innovative street design, subject to conditions.
4. The Applicant met the applicable Submittal Requirements.
5. The Governing Body should approve the preliminary development plan and innovative street design, subject to the conditions of approval and technical corrections recommended by staff and the additional conditions agreed to at the hearing, because all applicable code requirements and criteria for preliminary development plan approval have been met.
6. Final development plans for one or both phases of the Project shall be subject to review and approval by the Planning Commission at a public hearing, pursuant to SFCC Section 14-3.8 and other applicable provisions of Chapter 14 of the SFCC.

WHEREFORE, IT IS ORDERED ON THE 28TH DAY OF APRIL 2021 BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Considering the foregoing findings and conclusions, the Governing Body approves the preliminary development plan for the Properties (Case #2020-2901), including the request for an innovative street design, subject to the conditions and the technical corrections set forth in the Staff Report and exhibits, and the following additional conditions of approval:

(1) The Applicant shall use 500-year storm event modeling when determining the final design for arroyo bank stabilization measures.

(2) The Applicant shall assist with coordinating the efforts of the City, the New Mexico Gas Company, and any other relevant parties to mitigate erosion and other issues associated with the natural gas line, which is located off-site (not on the Applicant's property).

(3) Any amendments to the Santa Fe Homes Program Agreement for the Project shall be presented to the Governing Body for review and approval.

(4) The New Mexico Department of Transportation shall approve the final placement, design, and operation of the HAWK pedestrian crossing and any work or improvements within the State of New Mexico's right-of-way.

Pursuant to SFCC Section 14-3.19(B)(2), approval of the preliminary development plan shall expire three years after this final action approving it unless the final development plan is approved or an extension is granted pursuant to SFCC Section 14-3.19(C). If the preliminary development

plan expires, a new preliminary development plan must be submitted to the Governing Body for review and approval prior to development of the Properties.

Alan M. Webber
Mayor

May 5, 2021
Date

FILED:

Kristine Bustos-Mihelcic
City Clerk GB MTG 04/28/2021

May 5, 2021
Date

APPROVED AS TO FORM:

Erin K. McSherry
City Attorney

Apr 29, 2021
Date

2020-2901_Zia Prelim. Dev. Plan_GB_FOFCOL_DRAFT

Final Audit Report 2021-04-29

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ITEM #

ity of Santa Fe
Governing Body
Findings of Fact and Conclusions of Law

Case #2020-2866
Zia Station C-2 PUD Rezoning

Owner's\Applicant's Name – Zia Station, LLC

Agent's Name – JenkinsGavin, Inc.

THIS MATTER came before the Governing Body (Governing Body) for public hearing on the application (Application) of Jenkins Gavin, Inc., 2051 and April 8, 2051 (Hearing) as agent for Zia Station, LLC (Applicant).

I. INTRODUCTION

The Application pertains to properties located at the northwest and southwest corner of Zia Road and Drive, totaling approximately 55.7 acres (Properties). The Application requests approval of a rezoning from R-1 (Residential- one dwelling unit per acre) to C-2 (Commercial- Planned Unit Development). The properties are within the South Corridor Protection District (SCHC).

In related Case #2020-2868, the Applicant requests a general plan amendment to relocate at the northwest corner of St. Francis Drive and Zia Road, to change the designation from Low Density Residential (3 to 7 dwelling units per acre) to Residential (15 to 25 dwelling units per acre).

Additionally, in related Case #2020-2814, the Applicant seeks a general plan property at the southwest corner of St. Francis Drive and Zia Road, to change the Designation from Low Density Residential (3 to 7 dwelling units per acre) to Use.

Additionally, in related Case #2020-2005, the Applicant seeks a rezoning to amend on the Official Zoning Map of the South Central Highway Corridor Protection D exclude two properties at the northwest and southwest corners of St. Francis D from the Overlay District.

Finally, in related Case #2020-2010, the Applicant seeks preliminary development for a mixed-use Planned Unit Development to be developed in two phases for the northwest and southwest corners of St. Francis Drive and Zia Road.

After conducting a public hearing and having heard from staff and all interes

Governing Body hereby FINDS, as follows:

II. FINDINGS OF FACT

A. Background: Property History

1. In 2001, SF Brown Ltd. Company, managing partner in Zia Station, LLC (Applicant), entered into an agreement to purchase the 8.34-acre pumice plant property at the southwest corner of St. Francis drive and Zia Road.
2. On January 14, 2004, the Governing Body approved Resolution 2004-4, changing the future land use designation of the property that the northwest corner of St. Francis and Zia Road from Open Space to Low Density Residential (3 to 7 dwelling units per acre), and the property at the southwest corner from Park and Open Space to Transitional Mixed-Use, with a small portion changing to Low Density Residential (together, the Project).
3. At that time, the Applicant stated an intention to request a rezoning in the future to develop the northern property at approximately R-5 (Residential- five dwelling units per acre) or R-7 (Residential- seven dwelling units per acre), and to request a rezoning to C-2 PUD (General Commercial- Planned Unit Development) to develop the southern property as a mixed use development.
4. In 2005, SF Brown Ltd. Company closed on the purchase of pumice plant.
5. In 2007, the pumice plant was demolished.

B. Background: City Planning Efforts Related to Commuter Rail

6. On September 10, 2003, the Governing Body passed Resolution No. 2003-70, unanimously supporting the effort to establish a commuter rail line between Albuquerque and Santa Fe.
7. On November 14, 2007, the Governing Body passed a follow-up Resolution No. 2007-102, reaffirming the City's commitment to commuter rail and identifying concerns to be resolved.
8. On December 13, 2007, the Santa Fe Metropolitan Planning Organization (MPO) Transportation Policy Board approved the location of the Rail Runner Express Station at Zia Road.
9. NMDOT built the Zia Station platform prior to the commencement of Rail Runner service between Albuquerque and Santa Fe in 2008.
10. In 2008, the City of Santa Fe Long Range Planning Division prepared the Rail Corridor Strategic Plan, which identified Zia Station as the "Gateway to Santa Fe" and recommended a mixed-use, transit and pedestrian oriented development at the site consisting of up to three-story buildings. This Plan and its recommendations were not formally adopted by the City's Governing Body or incorporated into the City's General Plan.
11. On March 14, 2011, City and MPO staff conducted a public input meeting to discuss the opening of the Zia Station platform for rail service as a "kiss and ride" station. MPO staff presented a conceptual plan to show how pedestrian, bicycle, transit, and automobile access could be accommodated at the site. A majority of the 250 people present expressed a desire for the Zia Station platform to open.
12. On August 30, 2011, the Governing Body adopted Resolution No. 2011-44, recognizing the need for additional capital improvements in order to open the Zia Station platform.
13. On August 13, 2015, the City entered into an Impact Fee Credit Agreement with the Applicant for the Applicant to receive impact fee credits in exchange for constructing "kiss and ride"

(passenger drop off only) improvements to the Zia Station platform area. The Agreement was filed with the records of the City Clerk as Item #15-0511.

14. The Applicant completed the "kiss and ride" improvements to the Zia Station platform area in 2017.
15. In April 2017, Rail Runner service became available at the at Zia Station platform.

C. Background: Procedural History

16. Santa Fe City Code (SFCC) Section 14-3.2(D)(1) provides that an application for amendments to the general plan may be considered concurrently with an application for rezoning.
17. SFCC Section14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [SFCC §14-3.l(E)]; (b) an Early Neighborhood Notification (ENN) meeting [SFCC §14-3.1(F)(2)(a)(iii)]; and (c) compliance with notice and public hearing requirements [SFCC §14-3.1(H)-(I)].
18. A pre-application conference was held on February 6, 2020 in accordance with SFCC Section 14-3.l(E)(1).
19. Pursuant to SFCC Section 14-3.1(H), notice of the ENN meeting was properly given.
20. Pursuant to SFCC Section 14-3.1(F), a virtual ENN meeting was held on the Application on October 29, 2020. The ENN meeting was attended the Project team, members of City staff, and approximately 90 members of the public. Residents voiced concerns about traffic impacts, building height and visual impacts to the skyline, project density, loss of open space, and impacts to their neighborhood and property values. Skepticism was expressed about the TIA results, and that suggested road improvements could handle traffic presumed to be generated by the project. Residents stated that it was difficult for them to evaluate the project before receiving actual application materials, but staff pointed out that under the SFCC, the ENN always takes place before submission of an application. The President of the Candlelight Neighborhood Association requested that another ENN be held for the project.
21. The Applicant held one more, informal virtual meeting to answer additional questions on November 12, 2020.
22. City staff held one more, informal virtual meeting with residents on November 16, 2020, after residents had an opportunity to review the submitted application materials. Questions for staff were largely procedural in nature, although there were questions about the specific details of the project. Staff asked residents to summarize their questions and submit them to staff for follow up. Only one resident did this, submitting a detailed traffic analysis.
23. Pursuant to SFCC Section 14-3.2(D)(1), city staff reviewed the rezoning application, along with the related materials and information submitted by the Applicant, for conformity with applicable SFCC requirements (Submittal Requirements) and provided the Planning Commission with a written report of its findings (Staff Report), which evaluates the factors relevant to the application.
24. Staff recommended that the Planning Commission (Commission) should recommend that the Governing Body approve the rezoning.
25. Pursuant to SFCC Section 14-2.3(C)(7)(c) and Section 14-3.5(B)(1), the Commission has the authority to review and make recommendations to the Governing Body regarding rezonings.
26. Pursuant to SFCC 14-3.5(B)(2)(a), "[a]ll proposed rezonings shall be submitted to the planning commission for review and recommendation at a public hearing."

27. The Commission conducted a public hearing over the course of two meetings held February 4, 2021, and February 18, 2021.
28. The meeting minutes reflect that approximately forty-six (46) members of the public provided sworn public comment at the February 4, 2021 Commission meeting.
29. The record before the Governing Body reflects that approximately forty-two (42) individuals and one neighborhood association provided written public comment for the Commission's consideration at the public hearing.
30. On February 18, 2021, a majority of the Commission voted to recommend that the Governing Body approve the rezoning; two members of the Commission did not concur with the majority vote.
31. On March 4, 2021, the Commission adopted written Findings of Fact and Conclusions of Law reflecting its recommendation.

D. Rezoning: R-1 to C2-PUD

32. At a hearing conducted over the course of two special meetings held April 6, 2021, and April 8, 2021, the Governing Body considered the application in this case concurrently with the applications in Case Nos. 2020-2898, 2020-2914, 2020-2900, and 2020-2901.
33. Approximately thirty-nine (39) members of the public submitted written public comments in advance the written comment deadline of 1:00 p.m. on April 6, 2021, as set forth on the published meeting agenda.
34. At the April 6, 2021 meeting, the Governing Body received reports from staff, sworn testimony and evidence from the Applicant, and sworn testimony offered by interested members of the public.
35. Approximately forty-four (44) members of the public provided sworn public testimony at the April 6, 2021 meeting, and members of the Governing Body asked follow-up questions of some members of the public and allowed them to further testify and respond.
36. At the April 8, 2021 meeting, the Governing Body asked questions of city staff and the Applicant, and conducted discussion and deliberation prior to making a decision.
37. In this case, the Applicant seeks a rezoning from R-1 (Residential-one dwelling unit per acre) to C-2 PUD (General Commercial- Planned Unit Development).
38. Pursuant to SFCC Section 14-3.5(A)(1)(d), any person may submit a written request for rezoning, along with all submissions required by the SFCC Chapter 14 and any other information requested by the land use director as reasonably necessary to determine compliance with Chapter 14 (Submittal Requirements).
39. Pursuant to SFCC Section 14-2.2(A) and Section 14-3.5(B)(2), and Table 12-2.1-1, the Governing Body has the authority to review and approve rezonings.
40. SFCC Section 14-3.5(B) sets out procedures for rezoning and requires the Commission to hold a public hearing, review the Application, and make a recommendation to the Governing Body.
41. SFCC Section 14-3.5(C) sets out approval criteria and requires the Governing Body to make complete findings of fact sufficient to show that these criteria have been met before approving a rezoning.
42. Pursuant to SFCC Section 14-3.5(C)(1)(a)(i), the Governing Body finds that the rezoning is justified because when the City created the Transitional Mixed-Use future land use designation, it did not create a compatible zoning classification.

43. Pursuant to SFCC Section14-3.5(C)(1)(a)(ii), the Governing Body finds that the rezoning is justified because the default R-1 zoning of the properties is not representative of the surrounding area, which includes SC-1, C-1, I-1, BIP, R-21, R-7, and R-5. In addition, the Rail Runner Zia Station is an important public transit improvement that deserves responsible development of the adjacent properties.
44. Pursuant to SFCC Section14-3.5(C)(1)(a)(iii), the Governing Body finds that the rezoning is justified because the Zia Station mixed-use, transit/pedestrian-oriented development furthers General Plan Themes and Policies, such as Affordable Housing, Transportation Alternatives, Economic Diversity, Urban Form/Higher Densities, Community Oriented Development, and Mixed Use.
45. Pursuant to SFCC Section 14-3.5(C)(1)(b), the Governing Body finds that all the rezoning requirements of Chapter 14 have been met.
46. Pursuant to SFCC Section 14-3.5(C)(1)(c), the Governing Body finds that the proposed rezoning is consistent with the applicable policies of the general plan in that most of the Phase 2 property is already designated Transitional Mixed-Use, which supports the requested C-2 PUD zoning, and the Applicant is requesting required amendments to the Future Land Use Map of the General Plan concurrently with this Application.
47. Pursuant to SFCC Section 14-3.5(C)(1)(d), the Governing Body finds that the property is of sufficient size for rezoning and is located in an area that was designated for infill and future growth. At approximately 21 acres, the project site has the potential to provide significant housing and neighborhood scale services, at a location served by existing infrastructure, transit, and pedestrian trails.
48. Pursuant to SFCC Section 14-3.5(C)(1)(e), the Governing Body finds that the existing and proposed infrastructure can be modified to accommodate the impacts of the proposed development. A TIA was performed to assess the impact of the additional traffic anticipated to be generated by the proposed development. The Applicant will make improvements to the intersection of St. Francis Drive and Zia Road, including a third left-turn lane, which will improve traffic movement and stacking at this intersection.
49. Pursuant to SFCC Section 14-3.5(C)(2)(a), the Governing Body finds that the proposed zoning amendment will enable the construction of a mixed use development appropriate to the existing Transitional Mixed-Use future land use designation. The St. Francis corridor is generally mixed-use in nature, with both commercial and residential development, including much multi-family residential.
50. Pursuant to SFCC Section 14-3.5(C)(2)(b), the Governing Body finds that at 21.0 acres, the proposed rezoning is well over the two acre threshold.
51. Pursuant to SFCC Section 14-3.5(C)(2)(c), the Governing Body finds that the proposed rezoning will not benefit one or a few landowners at the expense of the surrounding landowners or the general public, in that Zia Station not only complies with numerous General Plan policies as addressed above, but is the type of mixed-use, walkable community that the General Plan encourages. The project benefits the general public through increased housing supply, road network improvements, pedestrian amenities, neighborhood services, opportunities for small businesses, and multi-modal transportation options. The Governing Body has taken multiple actions leading toward a mixed use, transit-focused development at this location.
52. Pursuant to SFCC Section 14-3.5(D), the Governing Body finds that the proposed rezoning and density can be accommodated by the proposed road infrastructure improvements.

53. At the Hearing, the Applicant stated that the Applicant did not intend for the Properties to be used for short-term rental uses and that the Applicant was in agreement with a condition to prohibit short-term rental uses within the planned unit development.

E. Vote at the Hearing

54. The following member of the Governing Body did not concur with the majority vote at the Hearing: Councilor Carol Romero-Wirth.
55. The following members of the Governing Body were not present for the hearing and did not participate in the decision: Councilor Signe Lindell and Councilor Christopher Rivera.

III. CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Governing Body CONCLUDES as follows:

General

1. Pursuant to SFCC Section 14-3.1, all procedural requirements regarding the pre-application conference, ENN meeting, and notice of public hearing have been met.

Rezoning

1. The Applicant has the right under the SFCC to propose the rezoning of the Property.
2. The Governing Body has the power and authority at law and under the SFCC to review and approve the proposed rezoning.
3. The Applicant met the applicable Submittal Requirements.
4. The Governing Body should approve the requested rezoning subject to a condition prohibiting short-term rental uses because all applicable code requirements and criteria for approval of the proposed rezoning have been met.

WHEREFORE, IT IS ORDERED ON THE 28TH DAY OF APRIL 2021 BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Considering the foregoing findings and conclusions, the Governing Body approves the rezoning, as requested in the Application for Case #2020-2899, subject to the condition that short-term rental uses shall be prohibited throughout the planned unit development.

Alan M. Webber
Mayor

May 5, 2021
Date

FILED:

Kristine Bustos-Mihelcic
City Clerk GB MTG 04/28/2021

May 5, 2021
Date

APPROVED AS TO FORM:

Erin K. McSherry
City Attorney

Apr 29, 2021
Date

2020-2899_Zia C2-PUD Rezoning_GB_FOFCOL_DRAFT

Final Audit Report 2021-04-29

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2021-04-29 - 10:47:17 PM GMT

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ITEM #C

City of Santa Fe
Governing Body
Findings of Fact and Conclusions of Law

Case #2020-2898
North Zia Station Central Plan Amendment

Owner's\Applicant's Name – Zia Station, LLC

Agent's Name – JenkinsGavin, Inc.

THIS MATTER came before the Governing Body (Governing Body) for hearing on the application (Application) of Jenkins Gavin, Inc., on behalf of Zia Station, LLC (Applicant).

I. INTRODUCTION

The Application pertains to a property located at the northwest corner of Zia Road and Francis Drive, totaling approximately 13.3 acres (Property). The Applicant requests amendment to change the Future Land Use Designation from Low Density Residential (3 to 7 dwelling units per acre) to High Density Residential (15 to 25 dwelling units per acre) and is within the Highway Corridor Protection District (SCHC).

In related Case #2020-2814, the Applicant seeks a General Plan amendment to change the property at the southwest corner of St. Francis Drive and Zia Road, to change the Designation from Low Density Residential (3 to 7 dwelling units per acre) to Transition Use.

Additionally, in related Case #2020-2900, the Applicant seeks a rezoning to amend the Official Zoning Map of the South Central Highway Corridor Protection District to exclude two properties at the northwest and southwest corners of St. Francis Drive from the Overlay District.

Additionally, in related Case #2020-2898, the Applicant seeks a rezoning from one dwelling unit per acre) to C-5 VUD (General Commercial- Planned Unit Development properties located at the northwest and southwest corners of St. Francis Drive and

Finally, in related Case #2020-2902, the Applicant seeks preliminary development for a mixed-use Planned Unit Development to be developed in two phases for the northwest and southwest corners of St. Francis Drive and Zia Road.

After conducting a public hearing and having heard from staff and all interested

Governing Body therby FINDS, as follows:

II. FINDINGS OF FACT

A. Background: Property History

1. On January 14, 2004, the Governing Body approved Resolution No. 2004-4, changing the future land use designation of the property at the northwest corner of St. Francis and Zia Road from Open Space to Low Density Residential (3 to 7 dwelling units per acre), and the property at the southwest corner from Park and Open Space to Transitional Mixed-Use, with a small portion changing to Low Density Residential.
2. At that time, the Applicant stated an intention to request a rezoning in the future to develop the northern property at approximately R-5 (Residential- five dwelling units per acre) or R-7 (Residential- seven dwelling units per acre), and to request a rezoning to C-2 PUD (General Commercial- Planned Unit Development) to develop the southern property as a mixed use development.

B. Background: City Planning Efforts Related to Commuter Rail

3. On September 10, 2003, the Governing Body passed Resolution No. 2003-70, unanimously supporting the effort to establish a commuter rail line between Albuquerque and Santa Fe.
4. On November 14, 2007, the Governing Body passed a follow-up Resolution No. 2007-102, reaffirming the City's commitment to commuter rail and identifying concerns to be resolved.
5. On December 13, 2007, the Santa Fe Metropolitan Planning Organization (MPO) Transportation Policy Board approved the location of the Rail Runner Express Station at Zia Road.
6. NMDOT built the Zia Station platform prior to the commencement of Rail Runner service between Albuquerque and Santa Fe in 2008.
7. In 2008, the City of Santa Fe Long Range Planning Division prepared the Rail Corridor Strategic Plan, which identified Zia Station as the "Gateway to Santa Fe" and recommended a mixed-use, transit and pedestrian oriented development at the site consisting of up to three-story buildings. This Plan and its recommendations were not formally adopted by the City's Governing Body or incorporated into the City's General Plan.
8. On March 14, 2011, City and MPO staff conducted a public input meeting to discuss the opening of the Zia Station platform for rail service as a "kiss and ride" station. MPO staff presented a conceptual plan to show how pedestrian, bicycle, transit, and automobile access could be accommodated at the site. A majority of the 250 people present expressed a desire for the Zia Station platform to open.
9. On August 30, 2011, the Governing Body adopted Resolution No. 2011-44, recognizing the need for additional capital improvements in order to open the Zia Station platform.
10. On August 13, 2015, the City entered into an Impact Fee Credit Agreement with the Applicant for the Applicant to receive impact fee credits in exchange for constructing "kiss and ride" (passenger drop off only) improvements to the Zia Station platform area. The Agreement was filed with the records of the City Clerk as Item #15-0511.
11. The Applicant completed the "kiss and ride" improvements to the Zia Station platform area in 2017.
12. In April 2017, Rail Runner service became available at the at Zia Station platform.

C. Background: Procedural History

13. Santa Fe City Code (SFCC) Section 14-3.2(D)(1) provides that an application for amendments to the general plan may be considered concurrently with an application for rezoning.
14. SFCC Section14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [SFCC § 14-3.l(E)]; (b) an Early Neighborhood Notification (ENN) meeting [SFCC § 14-3.1(F)(2)(a)(xii)]; and (c) compliance with notice and public hearing requirements [SFCC § 14-3.1(H)-(I)].
15. A pre-application conference was held on February 6, 2020 in accordance with SFCC Section 14-3.l(E)(1).
16. Pursuant to SFCC Section 14-3.1(H), notice of the ENN meeting was properly given.
17. Pursuant to SFCC Section 14-3.1(F), a virtual ENN meeting was held on the Application on October 29, 2020. The ENN meeting was attended the Project team, members of City staff, and approximately 90 members of the public. Residents voiced concerns about traffic impacts, building height and visual impacts to the skyline, project density, loss of open space, and impacts to their neighborhood and property values. Skepticism was expressed about the Traffic Impact Analysis (TIA) results, and whether suggested road improvements could handle traffic presumed to be generated by the project. Residents stated that it was difficult for them to evaluate the project before receiving actual application materials, but staff pointed out that under the SFCC, the ENN always takes place before submission of an application. The President of the Candlelight Neighborhood Association requested that another ENN be held for the project.
18. The Applicant held one more, informal virtual meeting to answer additional questions on November 12, 2020.
19. City staff held one more, informal virtual meeting with residents on November 16, 2020, after residents had an opportunity to review the submitted application materials. Questions for staff were largely procedural in nature, although there were questions about the specific details of the project. Staff asked residents to summarize their questions and submit them to staff for follow up. Only one resident did this, submitting a detailed traffic analysis.
20. Pursuant to SFCC Section 14-3.2(D)(1), city staff reviewed the general plan amendment application, along with the related materials and information submitted by the Applicant, for conformity with applicable SFCC requirements (Submittal Requirements) and provided the Planning Commission with a written report of its findings (Staff Report), which evaluates the factors relevant to the application.
21. Staff recommended that the Planning Commission (Commission) should recommend that the Governing Body approve the general plan amendment.
22. Pursuant to SFCC 14-3.2(D)(2)(a), "[a]ll proposed general plan amendments shall be submitted to the [Commission] for review and recommendation at a public hearing."
23. The Commission conducted a public hearing over the course of two meetings held February 4, 2021, and February 18, 2021.
24. The meeting minutes reflect that approximately forty-six (46) members of the public provided sworn public comment at the February 4, 2021 Commission meeting.
25. The record before the Governing Body reflects that approximately forty-two (42) individuals and one neighborhood association provided written public comment for the Commission's consideration at the public hearing.

26. On February 18, 2021, the Commission voted unanimously to recommend that the Governing Body approve the general plan amendment.
27. On March 4, 2021, the Commission adopted written Findings of Fact and Conclusions of Law reflecting its recommendation.

D. General Plan Amendment from Low Density to High Density Residential

28. At a hearing conducted over the course of two special meetings held April 6, 2021, and April 8, 2021, the Governing Body considered the application in this case concurrently with the applications in Case Nos. 2020-2914, 2020-2899, 2020-2900, and 2020-2901.
29. Approximately thirty-nine (39) members of the public submitted written public comments in advance the written comment deadline of 1:00 p.m. on April 6, 2021, as set forth on the published meeting agenda.
30. At the April 6, 2021 meeting, the Governing Body received reports from staff, sworn testimony and evidence from the Applicant, and sworn testimony offered by interested members of the public.
31. Approximately forty-four (44) members of the public provided sworn public testimony at the April 6, 2021 meeting, and members of the Governing Body asked follow-up questions of some members of the public and allowed them to further testify and respond.
32. At the April 8, 2021 meeting, the Governing Body asked questions of city staff and the Applicant, and conducted discussion and deliberation prior to making a decision.
33. Pursuant to SFCC Sections14-2.2(A) and 14-3.2(D)(3), and Table 14-2.1-1, the Governing Body has the authority to review and approve amendments to the general plan.
34. Pursuant to SFCC Section 14-3.2(B), the general plan must be amended before new zoning regulations establishing new land use classifications may be approved.
35. In this case, the Applicant seeks an amendment of the future land use designation from Low Density Residential to High Density Residential.
36. Under the general plan, "High Density Residential" is the highest density category and permits residential zoning of twelve to twenty-nine units per acre.
37. SFCC Section 14-3.2 sets out certain procedures for amendments to the general plan, including, without limitation, submittal of an application for review, a public hearing by the Commission, and a recommendation from the Commission to the Governing Body based upon the criteria set out in SFCC Section 14-3.2(E).
38. SFCC Section 14-3.2(E)(1) sets out approval criteria and requires the Governing Body to make complete findings of fact sufficient to show that these criteria have been met before approving an amendment to the general plan.
39. Based on the Staff Report and exhibits and the testimony and evidence presented at the hearing, the Governing Body finds that all applicable criteria in SFCC 14-3.2(E)(1) have been met.
40. Pursuant to SFCC 14-3.2(E)(1)(a), the Governing Body finds that the proposal is consistent with growth projections for Santa Fe and that an adequate supply of housing to support the workforce is important for economic development. As an infill site adjacent to major roads and commuter rail, the subject property is served by existing utility, transit, and roadway infrastructure.
41. Pursuant to SFCC 14-3.2(E)(1)(b), the Governing Body finds that the proposal is consistent with other parts of the general plan, including Guiding Policies regarding a mix of housing

types in all parts of the city, and the need to provide a mix of services and uses at the neighborhood level in the form of pedestrian-oriented neighborhood centers.

42. Pursuant to SFCC 14-3.2(E)(1)(c), the Governing Body finds that the proposed use is not inconsistent with the prevailing use and character in the area when considering the St. Francis corridor as a whole, that the Property is well over the two-acre minimum required for a general plan amendment, and that the project will not benefit one or a few landowners at the expense of the surrounding landowners or the general public because it will increase housing supply, including affordable housing; result in needed roadway improvements at Zia and St. Francis; and provide pedestrian amenities and multi-modal transportation options.
43. The Governing Body finds that the criterion in SFCC 14-3.2(E)(1)(d) is not applicable because Criterion 14-3.2(E)(1)(c) is met.
44. The Governing Body finds that the criterion in SFCC 14-3.2(E)(1)(e) is not applicable to this case.
45. Pursuant to SFCC 14-3.2(E)(1)(f), the Governing Body finds that approving a proposal for housing on the Property would promote the general welfare and contribute to the harmonious development of Santa Fe as long as the resulting density and design proposal are appropriate for the surrounding area.
46. Pursuant to SFCC 14-3.2(E)(1)(g), the Governing Body has considered conformity with other city policies, including land use policies, ordinances, regulations, and plans. The project is supported by goals and recommendations of the 2020-2045 Santa Fe Metropolitan Transportation Plan Approved May 28, 2020 by the Santa Fe MPO Transportation Policy Board; the Draft City of Santa Fe Land Use & Urban Design Plan proposed by the City of Santa Fe Long-Range Planning Division in 2017 (never adopted); the Amended Draft Rail Corridor Study: Transit Oriented Development for Santa Fe's Rail Corridor Neighborhoods, created by the City of Santa Fe Long Range Planning Division in 2008 (never adopted); and the Sustainable Santa Fe 25-Year Sustainability Plan with the Goal of Achieving Carbon Neutrality by the Year 2040, adopted by Resolution No. 2018-65.
47. The Governing Body finds that the additional criteria in SFCC 14-3.2(E)(2) are not applicable to this case because the proposal would not amend the land use policies section of the general plan.
48. The Governing Body finds that the additional criteria in SFCC 14-3.2(E)(3) are not applicable to this case because the proposal does not involve the adoption of a neighborhood plan.

E. Vote at the Hearing

49. The members of the Governing Body present at the hearing voted unanimously to approve the general plan amendment requested in this case.
50. The following members of the Governing Body were not present for the hearing and did not participate in the decision: Councilor Signe Lindell and Councilor Christopher Rivera.

III. CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Governing Body CONCLUDES as follows:

General

1. Pursuant to SFCC Section 14-3.1, all procedural requirements regarding the pre-application conference, ENN meeting, and notice of public hearing have been met.

General Plan Amendment

2. The Applicant has the right under the SFCC to propose an amendment to the general plan.
3. The Governing Body has the power and authority at law and under the SFCC to review and approve the proposed amendment to the general plan.
4. The Applicant met the applicable Submittal Requirements.
5. The Governing Body should approve the requested general plan amendment because all applicable code requirements and criteria for approval of the proposed amendment to the general plan have been met.

WHEREFORE, IT IS ORDERED ON THE 28TH DAY OF APRIL 2021 BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Considering the foregoing findings and conclusions, the Governing Body approves the general plan amendment, as requested in the Application for Case #2020-2898.

Alan M. Webber
Mayor

May 5, 2021
Date

FILED:

Kristine Bustos-Mihelcic
City Clerk GB MTG 04/28/2021

May 5, 2021
Date

APPROVED AS TO FORM:

Erin K. McSherry
City Attorney

Apr 29, 2021
Date

2020-2898_Zia North GP Amend_GB_FOFCOL_DRAFT

Final Audit Report 2021-04-29

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ITEM

ity of Santa Fe

Converting Body

Findings of Fact and Conclusions of Law

Case #2020-2914

South Zia Station General Plan Amendment

Owner's\Applicant's Name – Zia Station, LLC

Agent's Name – JenkinsGavin, Inc.

THIS MATTER came before the Converting Body (Converting Body) for hearing on the application (Application) of Jenkins Gavin, Inc., 2051 and April 8, 2051 (Hearing) upon the application (Application) of Jenkins Gavin, Inc. agent for Zia Station, LLC (Applicant).

I. INTRODUCTION

The Application pertains to a property located at the southwest corner of 2f. Francis Drive and Zia Road, totaling approximately 1.9 acres (Property). The Applicant requests a general plan amendment to the general plan future land use map designation from Low Density Residential (3 to 7 dwelling units per acre) to Transitional Mixed Use. The Property is zoned SF-5 and is within the South Central Highway Corridor Protection District (SCHC).

In related Case #2020-858, the Applicant requests a general plan amendment to the future land use map designation from Low Density Residential (3 to 7 dwelling units per acre) located at the northwest corner of 2f. Francis Drive and Zia Road, to change the designation from Low Density Residential (15 to 25 dwelling units per acre).

Additionally, in related Case #2020-2500, the Applicant seeks a rezoning to amend the Official Zoning Map of the South Central Highway Corridor Protection District to exclude two properties at the northwest and southwest corners of 2f. Francis Drive from the Overlay District.

Additionally, in related Case #2020-2988, the Applicant seeks a rezoning from C-5 VUD (General Commercial- Planned Unit Development overlay) to C-5 VUD (General Commercial- Planned Unit Development overlay) for two properties located at the northwest and southwest corners of 2f. Francis Drive and Zia Road.

Finally, in related Case #2020-1002, the Applicant seeks preliminary development plan approval for a mixed-use Planned Unit Development to be developed in two phases for the northwest and southwest corners of 2f. Francis Drive and Zia Road.

After conducting a public hearing and having heard from staff and all interested parties, Converting Body therby FINDS, as follows:

II. FINDINGS OF FACT

A. Background: Property History

1. In 2001, SF Brown Ltd. Company, managing partner in Zia Station, LLC (Applicant) entered into an agreement to purchase the 8.34-acre pumice plant property at the southwest corner of St. Francis drive and Zia Road.
2. On January 14, 2004, the Governing Body approved Resolution No. 2004-4, changing the future land use designation of the property that the northwest corner of St. Francis and Zia Road from Open Space to Low Density Residential (3 to 7 dwelling units per acre), and the property at the southwest corner from Park and Open Space to Transitional Mixed-Use, with a small portion changing to Low Density Residential (together, the Project).
3. At that time, the Applicant stated an intention to request a rezoning in the future to develop the northern property at approximately R-5 (Residential- five dwelling units per acre) or R-7 (Residential- seven dwelling units per acre), and to request a rezoning to C-2 PUD (General Commercial- Planned Unit Development) to develop the southern property as a mixed use development.
4. In 2005, SF Brown Ltd. Company closed on the purchase of pumice plant.
5. In 2007, the pumice plant was demolished.

B. Background: City Planning Efforts Related to Commuter Rail

6. On September 10, 2003, the Governing Body passed Resolution No. 2003-70, unanimously supporting the effort to establish a commuter rail line between Albuquerque and Santa Fe.
7. On November 14, 2007, the Governing Body passed a follow-up Resolution No. 2007-102, reaffirming the City's commitment to commuter rail and identifying concerns to be resolved.
8. On December 13, 2007, the Santa Fe Metropolitan Planning Organization (MPO) Transportation Policy Board approved the location of the Rail Runner Express Station at Zia Road.
9. NMDOT built the Zia Station platform prior to the commencement of Rail Runner service between Albuquerque and Santa Fe in 2008.
10. In 2008, the City of Santa Fe Long Range Planning Division prepared the Rail Corridor Strategic Plan, which identified Zia Station as the "Gateway to Santa Fe" and recommended a mixed-use, transit and pedestrian oriented development at the site consisting of up to three-story buildings. This Plan and its recommendations were not formally adopted by the City's Governing Body or incorporated into the City's General Plan.
11. On March 14, 2011, City and MPO staff conducted a public input meeting to discuss the opening of the Zia Station platform for rail service as a "kiss and ride" station. MPO staff presented a conceptual plan to show how pedestrian, bicycle, transit, and automobile access could be accommodated at the site. A majority of the 250 people present expressed a desire for the Zia Station platform to open.
12. On August 30, 2011, the Governing Body adopted Resolution No. 2011-44, recognizing the need for additional capital improvements in order to open the Zia Station platform.
13. On August 13, 2015, the City entered into an Impact Fee Credit Agreement with the Applicant for the Applicant to receive impact fee credits in exchange for constructing "kiss and ride"

(passenger drop off only) improvements to the Zia Station platform area. The Agreement was filed with the records of the City Clerk as Item #15-0511.

14. The Applicant completed the "kiss and ride" improvements to the Zia Station platform area in 2017.
15. In April 2017, Rail Runner service became available at the at Zia Station platform.

C. Background: Procedural History

16. Santa Fe City Code (SFCC) Section 14-3.2(D)(1) provides that an application for amendments to the general plan may be considered concurrently with an application for rezoning.
17. SFCC Section14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [SFCC § 14-3.l(E)]; (b) an Early Neighborhood Notification (ENN) meeting [SFCC § 14-3.1(F)(2)(a)(xii)]; and (c) compliance with notice and public hearing requirements [SFCC § 14-3.1(H)-(I)].
18. A pre-application conference was held on February 6, 2020 in accordance with SFCC Section 14-3.l(E)(1).
19. Pursuant to SFCC Section 14-3.1(H), notice of the ENN meeting was properly given.
20. Pursuant to SFCC Section 14-3.1(F), a virtual ENN meeting was held on the Application on October 29, 2020. The ENN meeting was attended the Project team, members of City staff, and approximately 90 members of the public. Residents voiced concerns about traffic impacts, building height and visual impacts to the skyline, project density, loss of open space, and impacts to their neighborhood and property values. Skepticism was expressed about the Traffic Impact Analysis (TIA) results, and whether suggested road improvements could handle traffic presumed to be generated by the project. Residents stated that it was difficult for them to evaluate the project before receiving actual application materials, but staff pointed out that under the SFCC, the ENN always takes place before submission of an application. The President of the Candlelight Neighborhood Association requested that another ENN be held for the project.
21. The Applicant held one more, informal virtual meeting to answer additional questions on November 12, 2020.
22. City staff held one more, informal virtual meeting with residents on November 16, 2020, after residents had an opportunity to review the submitted application materials. Questions for staff were largely procedural in nature, although there were questions about the specific details of the project. Staff asked residents to summarize their questions and submit them to staff for follow up. Only one resident did this, submitting a detailed traffic analysis.
23. Pursuant to SFCC Section 14-3.2(D)(1), city staff reviewed the general plan amendment application, along with the related materials and information submitted by the Applicant, for conformity with applicable SFCC requirements (Submittal Requirements) and provided the Planning Commission with a written report of its findings (Staff Report), which evaluates the factors relevant to the application.
24. Staff recommended that the Planning Commission (Commission) should recommend that the Governing Body approve the general plan amendment.
25. Pursuant to SFCC 14-3.2(D)(2)(a), "[a]ll proposed general plan amendments shall be submitted to the [Commission] for review and recommendation at a public hearing."
26. The Commission conducted a public hearing over the course of two meetings held February 4, 2021, and February 18, 2021.

27. The meeting minutes reflect that approximately forty-six (46) members of the public provided sworn public comment at the February 4, 2021 Commission meeting.
28. The record before the Governing Body reflects that approximately forty-two (42) individuals and one neighborhood association provided written public comment for the Commission's consideration at the public hearing.
29. On February 18, 2021, the Commission voted unanimously to recommend that the Governing Body approve the general plan amendment.
30. On March 4, 2021, the Commission adopted written Findings of Fact and Conclusions of Law reflecting its recommendation.

D. General Plan Amendment from Low Density Residential to Transitional Mixed-Use

31. At a hearing conducted over the course of two special meetings held April 6, 2021, and April 8, 2021, the Governing Body considered the application in this case concurrently with the applications in Case Nos. 2020-2898, 2020-2900, 2020-2899, and 2020-2901.
32. Approximately thirty-nine (39) members of the public submitted written public comments in advance the written comment deadline of 1:00 p.m. on April 6, 2021, as set forth on the published meeting agenda.
33. At the April 6, 2021 meeting, the Governing Body received reports from staff, sworn testimony and evidence from the Applicant, and sworn testimony offered by interested members of the public.
34. Approximately forty-four (44) members of the public provided sworn public testimony at the April 6, 2021 meeting, and members of the Governing Body asked follow-up questions of some members of the public and allowed them to further testify and respond.
35. At the April 8, 2021 meeting, the Governing Body asked questions of city staff and the Applicant, and conducted discussion and deliberation prior to making a decision.
36. Pursuant to SFCC Sections14-2.2(A) and 14-3.2(D)(3), and Table 14-2.1-1, the Governing Body has the authority to review and approve amendments to the general plan.
37. Pursuant to SFCC Section 14-3.2(B), the general plan must be amended before new zoning regulations establishing new land use classifications may be approved.
38. In this case, the Applicant seeks an amendment of the future land use designation from Low Density Residential to Transitional Mixed-Use.
39. On November 28, 2001, the Governing Body adopted Resolution No. 2001-82, adding "Transitional Mixed-Use" as a new future land use designation.
40. Under the general plan, as amended, "Transitional Mixed-Use" is intended to allow a mix of compatible land uses in an area, including residential and commercial, in a way that creates a transitional buffer between single-family neighborhoods and commercial development through a reduction in scale and intensity.
41. SFCC Section 14-3.2 sets out certain procedures for amendments to the general plan, including, without limitation, submittal of an application for review, a public hearing by the Commission, and a recommendation to the Governing Body based upon the criteria set out in SFCC Section 14-3.2(E).
42. SFCC Section 14-3.2(E)(1) sets out approval criteria and requires the Governing Body to make complete findings of fact sufficient to show that these criteria have been met before approving an amendment to the general plan.

43. Based on the Staff Report and exhibits and the testimony and evidence presented at the hearing, the Governing Body finds that all applicable criteria in SFCC 14-3.2(E)(1) have been met.
44. Pursuant to SFCC 14-3.2(E)(1)(a), the Governing Body finds that the proposal is consistent with existing land use conditions and that there is access to available infrastructure.
45. Pursuant to SFCC 14-3.2(E)(1)(b), the Governing Body finds that the proposal is consistent with growth projections for Santa Fe, and that an adequate supply of housing to support the workforce is important for economic development. The project will provide a variety of neighborhood services in an area that is currently not served without crossing St. Francis. As an infill site adjacent to major roads and commuter rail, the subject property is served by existing utility, transit, and roadway infrastructure.
46. Pursuant to SFCC 14-3.2(E)(1)(c), the Governing Body finds that the proposed use is not inconsistent with the prevailing use and character in the area when considering the St. Francis corridor as a whole, that the requested general plan amendment is an adjustment to the future land use designation boundary between two districts, and that the project will not benefit one or a few landowners at the expense of the surrounding landowners or the general public because it will increase housing supply, including affordable housing; result in roadway improvements at Zia and St. Francis; and provide pedestrian amenities and multi-modal transportation options.
47. Pursuant to SFCC 14-3.2(E)(1)(d), the Governing Body finds that the project promotes the general welfare by providing housing and neighborhood-scale commercial in an area not currently served by such commercial amenities, adjacent to commuter rail and a public trail. New residents of the development, as well as existing residents in adjacent neighborhoods, will have alternatives to automobile travel and services within walking distance, potentially reducing pollution and traffic congestion. The proposal is of public advantage and justified by prior City actions to promote significant public investment in commuter rail. Multiple City planning documents address the importance of neighborhood scale commercial services, as detailed in the Staff Report and exhibits.
48. The Governing Body finds that the criterion in SFCC 14-3.2(E)(1)(e) is not applicable to this case.
49. Pursuant to SFCC 14-3.2(E)(1)(f), the Governing Body finds that Zia Station is a rare opportunity to create a transit-focused development in Santa Fe, promoting the general welfare through providing housing and services in a walkable, pedestrian scale environment. It will create economic opportunity and community amenities on Zia Road on the west side of St. Francis. The Governing Body has taken a series of actions over many years to welcome commuter rail to Santa Fe and has recognized Zia Station as a location for some level of transit-focused development through multiple studies.
50. Pursuant to SFCC 14-3.2(E)(1)(g), the Governing Body has considered conformity with other city policies, including land use policies, ordinances, regulations, and plans. The Project is supported by goals and recommendations of the 2020-2045 Santa Fe Metropolitan Transportation Plan Approved May 28, 2020 by the Santa Fe MPO Transportation Policy Board; the Draft City of Santa Fe Land Use & Urban Design Plan proposed by the City of Santa Fe Long-Range Planning Division in 2017 (never adopted); the Amended Draft Rail Corridor Study: Transit Oriented Development for Santa Fe's Rail Corridor Neighborhoods, created by the City of Santa Fe Long Range Planning Division in 2008 (never adopted); and

the Sustainable Santa Fe 25-Year Sustainability Plan with the Goal of Achieving Carbon Neutrality by the Year 2040, adopted by Resolution No. 2018-65.

51. The Governing Body finds that the additional criteria in SFCC 14-3.2(E)(2) are not applicable to this case because the proposal would not amend the land use policies section of the general plan.
52. The Governing Body finds that the additional criteria in SFCC 14-3.2(E)(3) are not applicable to this case because the proposal does not involve the adoption of a neighborhood plan.

E. Vote at the Hearing

1. The members of the Governing Body present at the hearing voted unanimously to approve the general plan amendment requested in this case.
2. The following members of the Governing Body were not present for the hearing and did not participate in the decision: Councilor Signe Lindell and Councilor Christopher Rivera.

III. CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Governing Body CONCLUDES as follows:

General

1. Pursuant to SFCC Section 14-3.1, all procedural requirements regarding the pre-application conference, ENN meeting, and notice of public hearing have been met.

General Plan Amendment

2. The Applicant has the right under the SFCC to propose an amendment to the general plan.
3. The Governing Body has the power and authority at law and under the SFCC to review and approve the proposed amendment to the general plan.
4. The Applicant met the applicable Submittal Requirements.
5. The Governing Body should approve the requested general plan amendment because all applicable code requirements and criteria for approval of the proposed amendment to the general plan have been met.

WHEREFORE, IT IS ORDERED ON THE 28TH DAY OF APRIL 2021 BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Considering the foregoing findings and conclusions, the Governing Body approves the general plan amendment, as requested in the Application for Case #2020-2914.

_____ _____

Alan M. Webber, Mayor Date

Case #2020-2914
South Zia Station General Plan Amendment

FILED:

Kristine Bustos-Mihelcic
City Clerk GB MTG 04/28/2021

May 5, 2021
Date

APPROVED AS TO FORM:

Erin K. McSherry
City Attorney

Apr 29, 2021
Date

FIR No. 3333

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): **Galisteo Road Plat Vacation**

Sponsor(s): _____

Reviewing Department(s): Land Use Department

Staff Completing FIR: Lee Logston Date: 6/15/21 Phone: 955-6136

Reviewed by City Attorney: _____ Date: Jun 23, 2021

Reviewed by Finance Director: Alexis Lotero, Assistant Finance Director Date: Jun 24, 2021

Alexis Lotero, Assistant Finance Director (Jun 24, 2021 14:56 MDT)

Summary:

The proposed Resolution approves the vacation of existing portions of Galisteo Road, south of its intersection with Zia Road, contingent on the Planning Commission's approval of the vacation and the dedication of new rights-of-way in new alignment. The vacation and dedication is required to build the Zia Station project, as reflected in the preliminary development plan that the Governing Body approved on April 28, 2021. The proposed vacation requires Governing Body approval because the City owns the right-of-way proposed to be vacated. The purpose of this Resolution, if adopted, is to document the Governing Body's approval. If the Governing Body approves the vacation by adopting this Resolution, the developer will ask the Planning Commission to consider final approval of the vacation in conjunction with reviewing the developer's proposal to dedicate new Galisteo rights-of-way. Specifically, as part of the project the developer proposes to move Galisteo's current intersection with Zia further to the west and to add new roadway to the north of the intersection. The Planning Commission's review will be conducted pursuant to the Planning Commission's authority to consider an application for a final development plan and to approve the dedication of new public rights-of-way and improvements that are required to serve the new development.

Departments Affected:

Public Works, Planning and Land Use

Consequences of Not Enacting Legislation:

The Applicant will not be able to build Zia Station in the configuration for which the Governing Body gave preliminary development plan approval on April 28, 2021. Zia Road will not gain a HAWK pedestrian activated crossing at the realigned Galisteo intersection.

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

None

Performance and Administrative Implications:

The Public Works Department will continue to maintain the existing Galisteo Road right-of-way until the developer has constructed the new roadway, at the developer's expense, and taken the necessary steps to relocate utilities. When the new roadway and associated public improvements have been constructed to City standards and accepted by the City, the Department will assume maintenance of the new roadway and improvements.

Fiscal Implications:
This Resolution, which approves the vacation of the southern portion of Galisteo Road right-of-way, will have no fiscal impact because a new, replacement roadway will be dedicated to the City simultaneously with the vacation. Although the proposed Zia Station project will also result in the dedication of new right-of-way north of Zia Road, this aspect of the project can be approved by the Planning Commission in the exercise of its authority to review development proposals and falls outside the scope of this Resolution.

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
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

* 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: Lee Logston
Lee Logston (Jun 23, 2021 14:06 MDT)

Email: lrlogston@santafenm.gov

Signature:
Noah Berke (Jun 24, 2021 13:46 PDT)

Email: nlberke@santafenm.gov

Signature: Elias Isaacson
Elias Isaacson (Jun 23, 2021 14:31 MDT)

Email: esisaacson@santafenm.gov

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-__

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

EXTENDING THE STATE OF EMERGENCY AS PROCLAIMED BY THE MAYOR ON JULY 12, 2021 BY TWENTY-SIX (26) DAYS, EXPIRING AT NOON ON AUGUST 9, 2021, PURSUANT TO SECTION 20-1.3(C) SFCC 1987.

WHEREAS, on March 13, 2020, Mayor Webber proclaimed a state of emergency in response to the Public Health Emergency that is the rapid spread of an infection called COVID-19 (COVID-19 Proclamation I); and

WHEREAS, on March 16, 2020 the Governing Body voted to extend Mayor Webber's Proclamation, pursuant to SFCC 1987, Section 20-1.3(C); and

WHEREAS, on March 23, 2020 the Mayor proclaimed a state of emergency a second time in response to the continuing Public Health Emergency, due to the continued and growing emergency (COVID-19 Proclamation II); and

WHEREAS, on March 25, 2020 the Governing Body adopted amendments to Section 20-1.3 SFCC 1987 that allow the Governing Body to extend the proclamation of emergency by up to sixty (60) days in the event a public health emergency has been declared by the New Mexico

Department of Health; and

WHEREAS, the public health emergency declared by the New Mexico Department of Health continues; and

WHEREAS, subsequent to the Governing Body's amendments to Section 20-1.3, the Mayor has proclaimed a state of emergency eight times in response to the continuing public health emergency on May 25, 2020; July 27, 2020; September 28, 2020; November 30, 2020; January 20, 2021; March 29, 2021; May 24, 2021; and July 12, 2021 (COVID-19 Proclamations II through X); and

WHEREAS, in Santa Fe County, at least 81.2% of eligible residents ages 16 or older have had at least one does of a COVID-19 vaccine and at least 72.4% are fully vaccinated; and

WHEREAS, several of the more infectious variants, including the Delta variant, have been detected in New Mexico, requiring ongoing diligence and City response to suppress the spread of the virus; and

WHEREAS, the COVID-19 Proclamation I and the resolution extending it, Resolution No. 2020-10, are attached as Exhibit A; COVID-19 Proclamation II and the resolution extending it, Resolution No. 2020-13 are attached as Exhibit B; COVID-19 Proclamation III and the resolution extending it, Resolution No. 2020-20, are attached as Exhibit C; COVID-19 Proclamation IV and the resolution extending it, Resolution No. 2020-30 are attached as Exhibit D; COVID-19 Proclamation V and the resolution extending it, Resolution No. 2020-39 are attached as Exhibit E; COVID-19 Proclamation VI and the resolution extending it, Resolution No. 2020-44 are attached as Exhibit F; COVID-19 Proclamation VII and the resolution extending it, Resolution No. 2021-9 are attached as Exhibit G; COVID-19 Proclamation VIII and the resolution extending it, Resolution No. 2021-19 are attached as Exhibit H; COVID-19 Proclamation IX and the resolution extending it, Resolution No. 2021-31 are attached as Exhibit I; and COVID-19 Proclamation X is attached as Exhibit J; and

WHEREAS, if not extended, Proclamation X would expire on July 15, 2021; and

WHEREAS, the Governing Body wishes to extend Proclamation X for an additional twenty-six (26) days pursuant to Section 20-1.3(C), an extension that will allow, if needed, reissuance of a proclamation by the Mayor on August 9, 2021 and an extension by the Governing Body on August 11, 2021, a regularly scheduled Governing Body meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Proclamation X is hereby extended by twenty-six (26) days, expiring at noon on August 9, 2021, pursuant to Section 20-1.3(C).

PASSED, APPROVED, and ADOPTED this _____day of _____, 2021.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

KRISTINE MIHELCIC, CITY CLERK

APPROVED AS TO FORM:



_____

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2021/Resolutions/State of Emergency Extension X

EXHIBIT A

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-10

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

EXTENDING THE STATE OF EMERGENCY AS PROCLAIMED BY THE MAYOR ON MARCH 13, 2020 BY SEVEN DAYS, PURSUANT TO SECTION 20-1.2 SFCC 1987 AND DECREASING THE PERMITTED NUMBER OF PERSONS PERMITTED TO ASSEMBLE OR GATHER IN PUBLIC PLACES.

WHEREAS, on March 13, 2020 Mayor Webber declared a state of emergency pursuant to SFCC 1987, Section 20-1.2 in response to the Public Health Emergency that is the rapid spread of a virus called COVID-19 (Proclamation); and

WHEREAS, the Declaration is attached as Exhibit A;

WHEREAS, pursuant to Section 20-1.3, the Proclamation expires at noon on the third (3rd) day after it becomes effective;

WHEREAS, the Governing Body wishes to extend the Proclamation for an additional seven (7) days pursuant to Section 20-1.3(C), with the modifications described below.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the Proclamation is hereby extended by seven (7) days, expiring at

noon on March 23, 2020, pursuant to Section 20-1.3(C) with the following modifications:

No more than fifty (50) people may assemble or gather on the public streets, public parks, or other open areas, either public or private, or in any public building. The definitions of public building and assemble or gather remain the same as described in the March 13, 2020 Declaration.

PASSED, APPROVED, and ADOPTED this 16th day of March, 2020.

ALAN M. WEBBER, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2020/Resolutions/2020-10 State of Emergency Extension

CITY OF SANTA FE

PROCLAMATION OF EMERGENCY

WHEREAS, pursuant to SFCC 1987, Section 2-1.3, Powers and Duties of the Mayor, the Mayor has, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

WHEREAS, the City's Emergency Declaration Ordinance, Section 20-1, authorizes the Mayor to proclaim that a state of emergency exists in the municipality, after consultation with the emergency manager, chief of police, and/or fire chief;

WHEREAS, such proclamation allows the Mayor to prohibit and/or require certain actions to protect life and property and preserve public peace and safety and, if desired, to request that the Governor of New Mexico proclaim a state of emergency pursuant to the Riot Control Act;

WHEREAS, Santa Fe City Code 1987, Section 2-16, defines "emergency" as any "occasion or instance, such as a terrorist attack, terrorist threat, civil unrest, wildland and urban fire, flood, hazardous materials spill, nuclear accident, aircraft accident,

EXHIBIT "A"

earthquake, hurricane, tornado, tropical storm, tsunami, war-related disaster, public health or medical emergency, other occurrence requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment";

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another;

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency as a precautionary tool to facilitate preparation and availability of resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in the nation through its support of state and community-led preparedness and response efforts;

WHEREAS, the New Mexico Department of Health continues to identify a growing number of individuals infected with COVID-19 in New Mexico, including cases in Santa Fe County;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act,

and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2, as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico;

WHEREAS, the further spread of COVID-19 in the City of Santa Fe poses a threat to the health, safety, well-being and property of the residents of the City, including the potential loss of life, serious illness resulting from exposure to the COVID-19 virus, significant negative impact on the social, economic, and overall quality of life of the residents of Santa Fe;

THEREFORE, I, ALAN M. WEBBER, Mayor of the City of Santa Fe, New Mexico, hereby declare that an emergency exists in the City. As a result of the emergency, events have caused or are causing danger of injury or damage to persons and property within the City. I hereby invoke all Section 2-1.3, and Sections 20-1.2 through 20-1.5 of the Santa Fe City Code of 1987, to preserve the peace and order in the City of Santa

Fe. In particular, I am taking the following actions:

I. I order the following:

a. No more than 100 persons may assemble or gather on the public streets, public parks, or other open areas, either public or private, or in any public building. As used herein, "public" means a place used for a public purpose or as a place of public gathering, owned or under the control of the City and privately-owned properties that are open to the public, such as businesses and religious, charitable, educational, or recreation locations. "Assemble or gather" refers to intentional assemblies of a group of people; it does not refer to the use by individuals or families in the regular course of business, such as dining at a restaurant that happens to serve more than 100 people at a time, shopping at retail location with more than 100 customers, or entering a commercial establishment that happens to have more than 100 people present at that time. This prohibition also does not apply to weddings or funerals, shelters, or hospitals and other healthcare settings.

c. The City Manager shall direct city employees, as applicable, to perform emergency functions;

d. All available resources of the City shall be used to address the emergency as reasonably necessary;

e. Mayor Pro-Tem Signe Lindell, City Manager Jarel LaPan Hill, and Finance

Director Mary McCoy are my substitute signatories for emergency obligation of funds during the pendency of the declared emergency;

g. The City Clerk shall accept electronic signatures, including scanned copies of hard-copy signature, on legal documents, including but not limited to contracts, property documents, ordinances, resolutions, etc., and shall attest to electronic signatures of the Mayor and City Manager or their designee, if submitted by the signatory through the signatory's email; and

h. The City Clerk, City Manager, and City Attorney shall prepare and post an agenda for an emergency meeting of the City Council of the City of Santa Fe for Monday, March 16, 2020, to include (i) the approval of an extension of this order for seven (7) days; (ii) an amendment to City Rules regarding use of Sick Leave, expanding its permissible use during the Public Health Emergency; and (iii) other such matters as may be needed to address the emergency in Santa Fe.

II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following precautions in their day to day activities:

a. For those at high risk (elderly and immune compromised individuals), secure 3 months of all necessary medical prescriptions;

b. Avoid contact with people who are sick;

c. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;

d. If soap and water are not available, use a hand sanitizer that contains at least 60% alcohol;

e. To the extent possible, avoid touching high-touch surfaces in public places, such as elevator buttons, door handles, and handrails;

f. Use a tissue or your sleeve to cover your hand or finger if you must touch something;

g. Avoid handshaking;

h. Avoid touching your face, nose, and eyes;

i. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example: tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones and other electronic devices);

j. Avoid crowds, especially in poorly ventilated spaces;

k. Avoid human-to-human contact sports and swimming pools; and

l. Avoid all non-essential travel, including plane trips and cruise ships.

III. I also encourage the following:

a. Local businesses should offer paid sick leave whenever feasible;

[redacted]

b. Local businesses should ban non-essential travel for work;

c. Local businesses should, when feasible, allow employees to take leave to care for children while the schools are closed;

d. Local businesses should establish capabilities for employees to work from home where feasible;

e. Local businesses should, to the extent feasible, respond to requests from the City to contribute to and participate in such activities and efforts as may assist in responding to the current COVID-19 health crisis;

f. Residents should refrain from hoarding household and medical supplies, such as water, sanitizer, diapers, non-perishable food items, and toilet paper;

g. Residents should refrain from reselling purchases of household items for exorbitant prices;

h. Residents should, to the extent feasible without compromising other advisories, patronize and shop at local businesses, merchants, and vendors;

i. Residents should sign up for Alert Santa Fe at https://www.santafenm.gov/alertsantafe; and

j. Residents should identify opportunities to use technology to maintain supportive community engagement and contact with the City's most

vulnerable populations.

IV. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and order the City Manager to disseminate the contents hereof to the public by appropriate news media and any other means at his disposal.

V. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Santa Fe, New Mexico.

DONE at Santa Fe, New Mexico this 13th day of March, 2020 at the hour of 3:30 o'clock P.M. (MDT).

ALAN M. WEBBER, MAYOR
City of Santa Fe, New Mexico

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
(SEAL)

EXHIBIT B

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-13

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

EXTENDING THE STATE OF EMERGENCY AS PROCLAIMED BY THE MAYOR ON MARCH 23, 2020 BY SIXTY DAYS, PURSUANT TO SECTION 20-1.3(C) SFCC 1987.

WHEREAS, on March 13, 2020, Mayor Webber proclaimed a state of emergency in response to the Public Health Emergency that is the rapid spread of a virus called COVID-19 (Proclamation); and

WHEREAS, on March 16, 2020 the Governing Body voted to extend Mayor Webber's Proclamation, pursuant to SFCC 1987, Section 20-1.3(C); and

WHEREAS, on March 23, 2020 the Mayor again proclaimed a state of emergency in response to the continuing Public Health Emergency, due to the continued and growing emergency (Proclamation II); and

WHEREAS, on March 25, 2020, the Governing Body adopted amendments to Section 20-1.3 SFCC 1987 that allow the Governing Body to extend the proclamation of emergency by up to sixty (60) days in the event a public health emergency has been declared by the New Mexico Department of Health; and

WHEREAS, the Proclamation and extension to it, Resolution 2020-10, is attached as Exhibit A and Proclamation II is attached as Exhibit B;

WHEREAS, the Governing Body wishes to extend Proclamation II for an additional sixty (60) days pursuant to Section 20-1.3(C), with the modifications described below.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the Proclamation is hereby extended by sixty (60) days, expiring at noon on May 24, 2020, pursuant to Section 20-1.3(C) with the following modifications:

No more than ten (10) people may assemble or gather on the public streets, public parks, or other open areas, either public or private, or in any public building. The definitions of public building and assemble or gather remain the same as described in the March 23, 2020 Declaration.

PASSED, APPROVED, and ADOPTED this 25th day of March, 2020.

ALAN WEBBER, MAYOR

ATTEST:.

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2020/Resolutions/2020-13 State of Emergency Extension

EXHIBIT B

CITY OF SANTA FE

PROCLAMATION OF EMERGENCY II- COVID-19

WHEREAS, pursuant to SFCC 1987, Section 2-1.3, Powers and Duties of the Mayor, the Mayor has, within the City limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

WHEREAS, the City's Emergency Declaration Ordinance, Section 20-1, authorizes the Mayor to proclaim that a state of emergency exists in the municipality, after consultation with the emergency manager, chief of police, and/or fire chief;

WHEREAS, such proclamation allows the Mayor to prohibit and/or require certain actions to protect life and property and preserve public peace and safety and, if desired, to request that the Governor of New Mexico proclaim a state of emergency pursuant to the Riot Control Act;

WHEREAS, Santa Fe City Code 1987, Section 2-16, defines "emergency" as any "occasion or instance, such as a terrorist attack, terrorist threat, civil unrest, wildland and urban fire, flood, hazardous materials spill, nuclear accident, aircraft accident,

earthquake, hurricane, tornado, tropical storm, tsunami, war-related disaster, public health or medical emergency, other occurrence requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment";

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another;

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency as a precautionary tool to facilitate preparation and availability of resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in the nation through its support of state and community-led preparedness and response efforts;

WHEREAS, the New Mexico Department of Health continues to identify a growing number of individuals infected with COVID-19 in New Mexico, including cases in Santa Fe County;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the

State of New Mexico, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2, as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico;

WHEREAS, the further spread of COVID-19 in the City of Santa Fe poses a threat to the health, safety, well-being and property of the residents of the City, including the potential loss of life, serious illness resulting from exposure to the COVID-19 virus, significant negative impact on the social, economic, and overall quality of life of the residents of Santa Fe;

WHEREAS, pursuant to the foregoing clauses, I declared an emergency to exist in

the City on March 13, 2020 (Proclamation I);

WHEREAS, on March 16, 2020, the Governing Body of the City extended Proclamation I through March 23, 2020, which was the longest period of time permitted under the City's ordinances at that time;

WHEREAS, also on March 16, the Governing Body adopted new personnel rules to allow City employees to use sick leave and administrative leave for new purposes related to the emergency;

WHEREAS, on March 18, I supplemented my initial order to prohibit evictions due to inability to pay due to the COVID-19 virus; suspend parking fee enforcement; suspend fees for transit; delay the collection of lodgers tax, but not the reporting thereof; and suspend water shut-offs for failure to pay, but not the charges for water; and

WHEREAS, the emergency I proclaimed on March 13, 2020 continues, with sixty-five (65) documented cases of COVID-19 in New Mexico and ten (10) documented cases in Santa Fe County, with an anticipated significant increase in the coming days and weeks.

THEREFORE, I, ALAN M. WEBBER, Mayor of the City of Santa Fe, New Mexico, hereby declare, again, that an emergency exists in the City. As a result of the emergency, events have caused or are causing danger of injury or damage to

persons and property within the City. I hereby invoke all Section 2-1.3, and Sections 20-1.2 through 20-1.5 of the Santa Fe City Code of 1987, to preserve the peace and order in the City of Santa Fe. In particular, I take the following actions:

I. I order the following:

a. No more than five (5) persons may assemble or gather on the public streets, public parks, or other open areas, either public or private, or in any public building. As used herein, "public" means a place used for a public purpose or as a place of public gathering, owned or under the control of the City and privately owned properties that are open to the public, such as businesses and religious, charitable, educational, or recreation locations. "Assemble or gather" refers to intentional assemblies of a group of people; it does not refer to the use by individuals or families in the regular course of business, such as shopping at an essential retail location with more than five (5) customers, or entering an essential commercial establishment that happens to have more than five (5) people present at that time. This prohibition also does not apply to weddings or funerals, shelters, or hospitals and other healthcare settings;

b. The City Manager shall reduce or eliminate in-person provision of City services wherever possible and direct city employees, as applicable, to

perform emergency functions;

c. All available resources of the City shall be used to address the emergency as reasonably necessary;]

d. Mayor Pro-Tem Signe Lindell, City Manager Jarel LaPan Hill, and Finance Director Mary McCoy are my substitute signatories for emergency obligation of funds during the pendency of the declared emergency;

e. The City Clerk shall accept electronic signatures, including scanned copies of hard-copy signature, on legal documents, including but not limited to contracts, property documents, ordinances, resolutions, etc., and shall attest to electronic signatures of the Mayor and City Manager or their designee, if submitted by the signatory through the signatory's email;

f. Landlords are prohibited from evicting residential and commercial tenants who, because of the public health emergency, are unable to pay rent on time. This order does not seek to change the obligation of the tenant to pay rent;

g. Lodgers Tax will not be due during the public health emergency, but still must be reported fully and on time;

h. Water shut-offs for non-payments of the bill will cease, while charges will continue to accrue and be owed;

i. The requirement to pay parking fees is suspended, while restrictions on

parking locations and access rules remain in place and outstanding parking citations must be paid;

j. The requirement to pay City transit fees is suspended;

k. Short-term rental permit renewal late fees may be submitted after April 15, 2020, during the Proclaimed emergency, but must be submitted before May 15, 2020; and

l. Until May 31, 2020, recipients of parking citations issued before this Proclamation II may appeal or pay citation within sixty (60) days from issuance, but they are encouraged to pay or appeal within the fifteen (15) day deadline.

II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following precautions in their day-to-day activities:

a. For those who have traveled out of state or out of the country, self-quarantine for two (2) weeks after return or arrival to New Mexico;

b. For those at high risk (elderly and immune compromised individuals), secure three (3) months of all necessary medical prescriptions;

c. Avoid contact with people who are sick;

d. Practice "social distancing", by maintain six (6) feet between yourself and others;

e. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;

f. If soap and water are not available, use a hand sanitizer that contains at least sixty percent (60%) alcohol;

g. To the extent possible, avoid touching high-touch surfaces in public places, such as elevator buttons, door handles, and handrails;

h. Use a tissue or your sleeve to cover your hand or finger if you must touch something;

i. Avoid handshaking;

j. Avoid touching your face, nose, and eyes;

k. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example, tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones, and other electronic devices);

l. Avoid all non-essential travel, including plane trips and cruise ships.

III. I also encourage the following:

a. To the greatest extent possible, all residents should stay at home, with the exception of essential trips such as going to buy food, getting medical prescriptions filled and supplies purchased, and to attend to other essential business;

b. Local businesses should offer paid sick leave whenever feasible;

c. Local businesses should ban non-essential travel for work;

d. Local businesses should, when feasible, allow employees to take leave to care for children while the schools are closed;

e. Local businesses should establish capabilities for employees to work from home where feasible;

f. Local businesses should, to the extent feasible, respond to requests from the City to contribute to and participate in such activities and efforts as may assist in responding to the current COVID-19 health crisis;

g. Residents should refrain from hoarding household and medical supplies, such as water, sanitizer, diapers, non-perishable food items, and toilet paper;

h. Residents should refrain from reselling purchases of household items for exorbitant prices;

i. Residents should, to the extent feasible without compromising other advisories, patronize and shop at local businesses, merchants, and vendors;

j. Residents should sign up for "Alert Santa Fe" at https://www.santafenm.gov/alertsantafe; and

k. Residents should identify opportunities to use technology to maintain supportive community engagement and contact with the City's most vulnerable populations;

l. Residents who have lost their jobs due to the economic aftershock of the COVID-19 virus should immediately apply for and take the steps necessary to begin to receive unemployment benefits through the State of New Mexico.

IV. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and order the City Manager to disseminate the contents hereof to the public by appropriate news media and any other means at her disposal.

V. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing

Body of the City of Santa Fe, New Mexico.

DONE at Santa Fe, New Mexico this 23rd **day of** March **, 2020 at the hour of** 1:12 **o'clock** P **.M. (MDT).**

ALAN M. WEBBER, MAYOR
City of Santa Fe, New Mexico

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
(S E A L)

EXHIBIT C

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-20

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

EXTENDING THE STATE OF EMERGENCY AS PROCLAIMED BY THE MAYOR ON MAY 25, 2020 BY SIXTY (60) DAYS, PURSUANT TO SECTION 20-1.3(C) SFCC 1987.

WHEREAS, on March 13, 2020, Mayor Webber proclaimed a state of emergency in response to the Public Health Emergency that is the rapid spread of a virus called COVID-19 (Proclamation); and

WHEREAS, on March 16, 2020 the Governing Body voted to extend Mayor Webber's Proclamation, pursuant to SFCC 1987, Section 20-1.3(C); and

WHEREAS, on March 23, 2020 the Mayor again proclaimed a state of emergency in response to the continuing Public Health Emergency, due to the continued and growing emergency (Proclamation II); and

WHEREAS, on March 25, 2020, the Governing Body adopted amendments to Section 20-1.3 SFCC 1987 that allow the Governing Body to extend the proclamation of emergency by up to sixty (60) days in the event a public health emergency has been declared by the New Mexico Department of Health; and

WHEREAS, on May 25, 2020, the Mayor proclaimed a state of emergency in response to the continuing Public Health Emergency a third time, due to the continuing public health emergency that is the COVID-19 pandemic (COVID-19 Proclamation III); and

WHEREAS, COVID-19 Proclamation I and the resolution extending it, Resolution No. 2020-1-, are attached as Exhibit A; COVID-19 Proclamation II and the resolution extending it, Resolution No. 2020-13, are attached as Exhibit B; and COVID-19 Proclamation III is attached as Exhibit C; and

WHEREAS, the Governing Body wishes to extend Proclamation III for an additional sixty (60) days pursuant to Section 20-1.3(C).

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the Proclamation is hereby extended by sixty (60) days, expiring at noon on July 26, 2020, pursuant to Section 20-1.3(C) with the following modifications:

PASSED, APPROVED, and ADOPTED this 27th day of May, 2020.

ALAN WEBBER, MAYOR

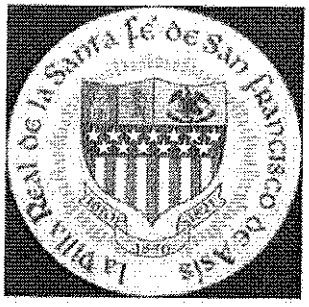
ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2020/Resolutions/2020-20 State of Emergency 60 Day Extension III



CITY OF SANTA FE

PROCLAMATION OF EMERGENCY III- COVID-19

WHEREAS, pursuant to SFCC 1987, Section 2-1.3, Powers and Duties of the Mayor, the Mayor has, within the City limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

WHEREAS, the City's Emergency Declaration Ordinance, Section 20-1, authorizes the Mayor to proclaim that a state of emergency exists in the city, after consultation with the emergency manager, chief of police, and/or fire chief;

WHEREAS, such an emergency proclamation allows the Mayor to prohibit and/or require certain actions to protect life and property and preserve public peace and safety and, if desired, to request that the Governor of New Mexico proclaim a state of emergency pursuant to the Riot Control Act;

WHEREAS, Santa Fe City Code 1987, Section 2-16, defines "emergency" as any "occasion or instance, such as a terrorist attack, terrorist threat, civil unrest, wildland and urban fire, flood, hazardous materials spill, nuclear accident, aircraft accident,

earthquake, hurricane, tornado, tropical storm, tsunami, war-related disaster, public health or medical emergency, other occurrence requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment";

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another;

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency as a precautionary tool to facilitate preparation and availability of resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in the nation through its support of state and community-led preparedness and response efforts;

WHEREAS, the New Mexico Department of Health continues to identify a growing number of individuals infected with COVID-19 in New Mexico, including 129 cases in Santa Fe County;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act,

and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2, as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico;

WHEREAS, the spread of COVID-19 in New Mexico and the City of Santa Fe poses a threat to the health, safety, well-being and property of the residents of the City, including the potential loss of life, serious illness resulting from exposure to the COVID-19 virus, significant negative impact on the social, economic, and overall quality of life of the residents of Santa Fe;

WHEREAS, pursuant to the foregoing clauses, I declared an emergency to exist in the City on March 13, 2020 (Proclamation I) and March 23, 2020 (Proclamation II);

WHEREAS, on March 16, 2020, the Governing Body of the City extended Proclamation I through March 23, 2020, and on March 25, 2020, the Governing Body extended Proclamation II through May 24, 2020;

WHEREAS, Secretary Kunkel issued a series of Public Health Orders on March 13, 2020; March 16, 2020; March 19, 2020; March 23, 2020; March 25, 2020; April 6, 2020; April 11, 2020; April 30, 2020; May 5, 2020; and May 15, 2020, imposing various restrictions on activities within New Mexico;

WHEREAS, the pandemic and the City's and State's rapid and effective response to it, including the elimination of mass gatherings and implementing significant social distancing measures, have resulted in an unprecedented fiscal crisis for the City, its residents, and its businesses: a large number of residents have suffered reduced hours or job loss; the City's mom and pop stores and shops were closed to combat the spread of the virus, with great financial losses; the major businesses and markets that traditionally have catered to the tourists who flock to Santa Fe have had their revenues reduced to a trickle or their historic events have been cancelled entirely;

WHEREAS, at the time of this Proclamation, the City anticipates over a $100 million operating deficit due to reduced revenues, which is a significant proportion of the City's operating budget;

WHEREAS, as the rates of infection, hospitalization, and death from the COVID-19 pandemic begin to flatten and decrease in New Mexico, Governor Lujan Grisham and Secretary Kunkel have begun to "reopen" New Mexico, by lifting certain restrictions while requiring implementation of "COVID-19 Safe Practices"; and

WHEREAS, certain orders I previously issued remain necessary to protect life and

property and preserve public peace and safety of the people of Santa Fe; and other orders I previously issued require updating as the State of New Mexico begins to reopen.

THEREFORE, I, ALAN M. WEBBER, Mayor of the City of Santa Fe, New Mexico, hereby declare, that a public health emergency and a financial emergency exist in the City. As a result of these emergencies, events have caused or are causing danger of injury or damage to persons and property within the City. I hereby invoke all Section 2-1.3, and Sections 20-1.2 through 20-1.5 of the Santa Fe City Code of 1987, to preserve the peace and order in the City of Santa Fe. In particular, I take the following actions:

I. I order the following:

a. No more than five (5) persons may assemble or gather on the public streets, public parks, or other open areas, either public or private, or in any public building. When the State's limitations on mass gatherings permit greater numbers of persons to gather, this order shall allow the same number to gather. As used herein, "public" means a place used for a public purpose or as a place of public gathering, owned or under the control of the City and privately owned properties that are open to the public, other than in religious and educational buildings as permitted pursuant to State orders that are in place. "Assemble or gather" refers to intentional assemblies of a group of

people; it does not refer to the use of a space by individuals or families in the location's regular course of business, such as shopping at a retail location where there are more than five (5) customers or entering a commercial establishment that happens to have more than five (5) people present at that time. This prohibition also does not apply to weddings or funerals, shelters, or hospitals and other healthcare settings;

b. The City Manager shall address the public health emergency by

i. reducing or eliminating in-person provision of City services wherever possible

ii. directing City employees, as applicable, to perform emergency functions; and

iii. working with the Human Resources Department to issue policies regarding COVID-19 Safe Practices for City employees;

c. The City Manager shall address the financial emergency by

i. identifying savings across the City's operations;

ii. making recommendations to the Governing Body regarding options for streamlining and reducing the cost of City government, including options for reduced service levels and ways as well as ways to increase City revenues; and

iii. identifying mechanisms and facilitating City collaboration with local

partners to safely reopen Santa Fe to allow activities that generate City revenues;

d. All available resources of the City shall be used to address the emergency as reasonably necessary;

e. Mayor Pro-Tem Signe Lindell, City Manager Jarel LaPan Hill, and Finance Director Mary McCoy are my substitute signatories for emergency obligation of funds during the pendency of the declared emergency;

f. The City Clerk shall accept electronic signatures, including scanned copies of hard-copy signature, on legal documents, including but not limited to contracts, property documents, ordinances, resolutions, etc., and shall attest to electronic signatures of the Mayor and City Manager or their designees, if submitted by the signatory through the signatory's email;

g. Until the New Mexico Supreme Court lifts its injunction, landlords are prohibited from evicting residential tenants. In addition, landlords are prohibited from evicting commercial tenants who are unable to pay rent on time because, due to the public health emergency, they have been prohibited from opening to the public. This order does not seek to change the obligation of a tenant to pay rent and strongly encourages discussions of payment plans between landlords and tenants;

h. Lodgers Tax will not be due during the public health emergency, but still

must be reported fully and on time;

i. Water shut-offs for non-payments of the bill will cease, while charges will continue to accrue and be owed;

j. The collection of parking fees remains suspended through May 31 for on-street parking and remains suspended through June 30 for garage parking; restrictions on parking locations and access rules remain in place;

k. The collection of City transit fees is suspended;

l. Until May 31, 2020, recipients of parking citations issued before March 23, 2020 may appeal or pay citation within sixty (60) days from issuance, but they are encouraged to pay or appeal within the fifteen (15) day deadline.

m. The April 6, 2020 orders I issued regarding grocery stores and super markets and the April 10, 2020 exceptions to those orders that I issued for use of reusable bags remain in place;

n. Unless a healthcare provider instructs otherwise or the State exempts a person from wearing a facial covering for a reason such as age, all individuals shall wear a mask or facial covering in public settings except when eating, drinking, or exercising; as used here "public setting" means indoor spaces that are open to the public and outdoor spaces that are open to the public where there is not six-feet of distance between persons at all times;

o. Retail; restaurants; office and call centers; grocery stores and farmers'

markets; youth programs; manufacturing, warehouse, and food production; hotels, resorts and lodging; golf courses; tour operators; houses of worship; farms, ranches and dairy producers and processors; veterinarians and animal care facilities; construction and field operations; automobile dealerships and services; and medical providers and other industries shall comply with the State-issued COVID-19 Safe Practices (CSPs), which are accessible online: www.cv.nmhealth.org/covid-safe-practices.

II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following precautions in their day-to-day activities:

a. For those who flown into New Mexico from out of the state or out of the country, self-quarantine for two (2) weeks after return or arrival to New Mexico;

b. For those at high risk (elderly and immune compromised individuals), secure three (3) months of all necessary medical prescriptions;

c. Avoid contact with people who are sick;

d. Practice "social distancing", by maintain six (6) feet between yourself and others;

e. Wash your hands often with soap and water for at least 20 seconds,

especially after blowing your nose, coughing, or sneezing, or having been in a public place;

f. If soap and water are not available, use a hand sanitizer that contains at least sixty percent (60%) alcohol;

g. To the extent possible, avoid touching high-touch surfaces in public places, such as elevator buttons, door handles, and handrails;

h. Use a tissue or your sleeve to cover your hand or finger if you must touch something;

i. Avoid handshaking;

j. Avoid touching your face, nose, and eyes;

k. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example, tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones, and other electronic devices); and

l. Avoid all non-essential travel, including plane trips and cruise ships.

III. I also encourage the following:

a. To the greatest extent possible, all residents should practice safe and hygienic conduct as the City begins to re-open, as described in Section II of this Order, above, and as further described in the Santa Fe Promise, below;

b. Local businesses should offer paid sick leave whenever feasible;

c. Local businesses should ban non-essential travel for work;

d. Local businesses should, when feasible, allow employees to take leave to care for children while the schools are closed;

e. Local businesses should establish capabilities for employees to work from home where feasible;

f. Local businesses should, to the extent feasible, respond to requests from the City to contribute to and participate in such activities and efforts as may assist in responding to the current COVID-19 health crisis;

g. Residents should refrain from hoarding household and medical supplies, such as water, sanitizer, diapers, non-perishable food items, and toilet paper;

h. Residents should refrain from reselling purchases of household items for exorbitant prices;

i. Residents should, to the extent feasible without compromising other advisories, patronize and shop at local businesses, merchants, and vendors;

j. Residents should sign up for "Alert Santa Fe" at https://www.santafenm.gov/alertsantafe; and

k. Residents should identify opportunities to use technology to maintain

supportive community engagement and contact with the City's most vulnerable populations;

l. Residents who have lost their jobs due to the economic aftershock of the COVID-19 virus should immediately apply for and take the steps necessary to begin to receive unemployment benefits through the State of New Mexico; and

m. Residents should make the "Santa Fe Promise": I promise to:

> Act as if I carry the coronavirus.
> Maintain social distancing of at least six feet.
> Wear a face covering, wash my hands, use sanitizer.
> Buy from local businesses that also make this promise.
> Practice patience, compassion, empathy, connection, respect and love.
> We will keep Santa Fe safe. We will keep Santa Fe open. Together.

n. Residents should support local businesses that take the Santa Fe Promise.

IV. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and order the City Manager to disseminate the contents hereof to the public by appropriate news media and any other means at her disposal.

V. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing

Body of the City of Santa Fe, New Mexico.

DONE at Santa Fe, New Mexico this 25th day of May, 2020 at the hour of 7:15 o'clock P.M. (MDT).

ALAN M. WEBBER, MAYOR
City of Santa Fe, New Mexico

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
(S E A L)

EXHIBIT D

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-30

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

EXTENDING THE STATE OF EMERGENCY AS PROCLAIMED BY THE MAYOR ON JULY 27, 2020 BY SIXTY (60) DAYS, PURSUANT TO SECTION 20-1.3(C) SFCC 1987.

WHEREAS, on March 13, 2020, Mayor Webber proclaimed a state of emergency in response to the Public Health Emergency that is the rapid spread of an infection called COVID-19 (COVID-19 Proclamation I); and

WHEREAS, on March 16, 2020 the Governing Body voted to extend Mayor Webber's Proclamation, pursuant to SFCC 1987, Section 20-1.3(C); and

WHEREAS, on March 23, 2020 the Mayor proclaimed a state of emergency a second time in response to the continuing Public Health Emergency, due to the continued and growing emergency (COVID-19 Proclamation II); and

WHEREAS, on March 25, 2020, the Governing Body adopted amendments to Section 20-1.3 SFCC 1987 that allow the Governing Body to extend the proclamation of emergency by up to sixty (60) days in the event a public health emergency has been declared by the New Mexico Department of Health; and

WHEREAS, on May 25, 2020, the Mayor proclaimed a state of emergency in response to the continuing Public Health Emergency a third time, due to the continuing public health emergency that is the COVID-19 pandemic (COVID-19 Proclamation III); and

WHEREAS, on May 27, 2020, the Governing Body extended COVID-19 Proclamation III for sixty days; and

WHEREAS, the COVID-19 pandemic has intensified in Santa Fe since Mayor Webber issued Proclamation III; and

WHEREAS, on July 27, 2020 Mayor Webber proclaimed a state of emergency for a fourth time, due to the continuing public health emergency that is the COVID-19 pandemic (COVID-19 Proclamation IV);

WHEREAS, the COVID-19 Proclamation I and the resolution extending it, Resolution 2020-10, are attached as Exhibit A; COVID-19 Proclamation II and the resolution extending it, Resolution 2020-13 are attached as Exhibit B; COVID-19 Proclamation III and the resolution extending it, Resolution 2020-20 , are attached as Exhibit C; and COVID-19 Proclamation IV is attached as Exhibit D; and

WHEREAS, the Governing Body wishes to extend Proclamation IV for an additional sixty (60) days pursuant to Section 20-1.3(C).

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Proclamation IV is hereby extended by sixty (60) days, expiring at noon on September 27, 2020, pursuant to Section 20-1.3(C).

PASSED, APPROVED, and ADOPTED this 29th day of July 2020.

ALAN WEBBER, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2020/Resolutions/2020-30 State of Emergency Extension IV

CITY OF SANTA FE

PROCLAMATION OF EMERGENCY IV- COVID-19

WHEREAS, pursuant to SFCC 1987, Section 2-1.3, Powers and Duties of the Mayor, the Mayor has, within the City limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

WHEREAS, the City's Emergency Declaration Ordinance, Section 20-1, authorizes the Mayor to proclaim that a state of emergency exists in the city, after consultation with the emergency manager, chief of police, and/or fire chief;

WHEREAS, such an emergency proclamation allows the Mayor to prohibit and/or require certain actions to protect life and property and preserve public peace and safety and, if desired, to request that the Governor of New Mexico proclaim a state of emergency pursuant to the Riot Control Act;

WHEREAS, Santa Fe City Code 1987, Section 2-16, defines "emergency" as any "occasion or instance, such as a terrorist attack, terrorist threat, civil unrest, wildland and urban fire, flood, hazardous materials spill, nuclear accident, aircraft accident, earthquake, hurricane, tornado, tropical storm, tsunami, war-related disaster, public health or medical emergency, other occurrence requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment";

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another;

WHEREAS, on January 31, 2020, the United States Department of Health and

EXHIBIT "D"

Human Services Secretary declared a public health emergency as a precautionary tool to facilitate preparation and availability of resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in the nation through its support of state and community-led preparedness and response efforts;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2, as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico;

WHEREAS, the spread of COVID-19 in New Mexico and the City of Santa Fe poses a threat to the health, safety, well-being and property of the residents of the City, including the potential loss of life, serious illness resulting from exposure to the COVID-19 virus, significant negative impact on the social, economic, and overall quality of life of the residents of Santa Fe;

WHEREAS, pursuant to the foregoing clauses, I declared an emergency to exist in the City on March 13, 2020 (Proclamation I), and I recognized the continuation of the emergency on March 23, 2020 in a second proclamation (Proclamation II) and in a third proclamation on May 26, 2020 (Proclamation III);

WHEREAS, Secretary Kunkel issued a series of Public Health Orders on March 13, 2020; March 16, 2020; March 19, 2020; March 23, 2020; March 25, 2020; April 6, 2020; April 11, 2020; April 30, 2020; May 5, 2020; May 15, 2020, May 27, 2020; June 1, 2020; June 12, 2020; June 15, 2020; June 30, 2020; and July 13, 2020, imposing various restrictions on activities within New Mexico;

WHEREAS, the New Mexico Department of Health continues to identify a growing number of individuals who have been infected with COVID-19 in New Mexico, including 497 cases in Santa Fe County;

WHEREAS, after certain restrictions were lifted in May and June, rates of COVID-19 infection increased, exceeding earlier rates of transmission;

WHEREAS, Proclamation III expires on July 26, 2020;

WHEREAS, the Centers for Disease Control (CDC) has issued guidance during the pandemic that cautions against moving or clearing encampments due to the risk of dispersing people in the community and breaking their connections with service providers;

WHEREAS, certain orders I previously issued remain necessary to protect life and property and preserve public peace and safety of the people of Santa Fe; and other orders I previously issued require updating to address the continuing pandemic.

THEREFORE, I, ALAN M. WEBBER, Mayor of the City of Santa Fe, New Mexico, hereby declare, that a public health emergency continues to exist in the City. As a result of these emergencies, events have caused or are causing danger of injury or damage to persons and property within the City. I hereby invoke all Section 2-1.3, and Sections 20-1.2 through 20-1.5 of the Santa Fe City Code of 1987, to preserve the peace and order in the City of Santa Fe.

In particular, I take the following actions:

I. I order the following:

a. Gatherings of five (5) or more persons may not take place on the public streets, public parks, or other open areas, either public or private, or in any public building. When the State's limitations on mass gatherings permit greater numbers of persons to gather, this order shall allow the same number to gather. As used herein, "public" means a place used for a public purpose or as a place of public gathering, owned or under the control of the City and privately owned properties that are open to the public, other than in religious and educational buildings as permitted pursuant to State orders

that are in place. "Assemble or gather" refers to intentional assemblies of a group of people; it does not refer to the use of a space by individuals or families in the location's regular course of business, such as shopping at a retail location where there are more than five (5) customers or entering a commercial establishment that happens to have more than five (5) people present at that time. This prohibition also does not apply to weddings or funerals, shelters, or hospitals and other healthcare settings;

b. The City Manager shall address the public health emergency by

i. reducing or eliminating in-person provision of City services wherever possible;

ii. directing City employees, as applicable, to perform emergency functions;

iii. adopting a policy to evaluate and address the public health risks, environmental compliance of, and locations of encampments, and to provide residents of such encampments with access to available social services, including transitional housing in furtherance of the Built for Zero initiative to eliminate chronic homelessness, to avoid removing encampments when leaving them in place furthers the purposes of this Order; and

iii. working with the Human Resources Department to issue policies regarding COVID-19 Safe Practices for City employees;

d. All available resources of the City shall be used to address the emergency as reasonably necessary;

e. Mayor Pro-Tem Signe Lindell, City Manager Jarel LaPan Hill, and Finance Director Mary McCoy are my substitute signatories for emergency obligation of funds during the pendency of the declared emergency;

f. The City Clerk shall accept electronic signatures, including scanned copies of hard-copy signature, on legal documents, including but not limited to contracts, property documents, ordinances, resolutions, etc., and shall attest to electronic signatures of the Mayor and City Manager or their designees, if submitted by the signatory through the signatory's email;

g. Until the New Mexico Supreme Court lifts its injunction, landlords are prohibited from evicting residential tenants. In addition, landlords are

prohibited from evicting commercial tenants who are unable to pay rent on time because, due to the public health emergency, they have been prohibited from opening to the public. This order does not seek to change the obligation of a tenant to pay rent and strongly encourages discussions of payment plans between landlords and tenants;

h. Lodgers Tax payments shall resume on a monthly basis and payments previously delayed during the public health emergency shall be submitted during Fiscal Year 2021, along with future payments; at least one quarter of the delayed amount shall be paid by the end of each quarter of Fiscal Year 2021;

i. Water shut-offs for non-payments of the bill will cease, while charges will continue to accrue and be owed;

k. The collection of City transit fees shall be reinstated, implementing COVID-19 Safe Practices (CSPs);

m. The April 6, 2020 orders I issued regarding grocery stores and super markets and the April 10, 2020 exceptions to those orders that I issued for use of reusable bags remain in place;

n. Unless a healthcare provider instructs otherwise or the State exempts a person from wearing a facial covering for a reason such as age, all individuals shall wear a mask or facial covering in public settings except when eating, drinking, or swimming; as used here "public setting" means places that are open to the public where there is not six-feet of distance between persons at all times;

o. Retail; restaurants; office and call centers; grocery stores and farmers' markets; youth programs; manufacturing, warehouse, and food production; hotels, resorts and lodging; golf courses; tour operators; houses of worship; farms, ranches and dairy producers and processors; veterinarians and animal care facilities; construction and field operations; automobile dealerships and services; and medical providers and other industries shall comply with the State-issued CSPs, which are accessible online: www.cv.nmhealth.org/covid-safe-practices; and

p. Employers shall not retaliate against employees for seeking to comply with CSPs, advocating that their place of business follow CSPs, or reporting non-compliance with CSPs.

II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following precautions in their day-to-day activities:

a. For those who have traveled into New Mexico from out of the state or out of the country, self-quarantine for two (2) weeks after return or arrival to New Mexico;
b. For those at high risk (elderly and immune compromised individuals), secure three (3) months of all necessary medical prescriptions;
c. Avoid contact with people who are sick;
d. Practice "social distancing", by maintain six (6) feet between yourself and others;
e. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;
f. If soap and water are not available, use a hand sanitizer that contains at least sixty percent (60%) alcohol;
g. To the extent possible, avoid touching high-touch surfaces in public places, such as elevator buttons, door handles, and handrails;
h. Use a tissue or your sleeve to cover your hand or finger if you must touch something;
i. Avoid handshaking;
j. Avoid touching your face, nose, and eyes;
k. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example, tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones, and other electronic devices); and
l. Avoid all non-essential travel, including plane trips and cruise ships.

III. I also encourage the following:

a. To the greatest extent possible, all residents should practice safe and hygienic conduct as the City begins to re-open, as described in Section II of this Order, above, and as further described in the Santa Fe

Promise, below;

b. Local businesses should offer paid sick leave whenever feasible;
c. Local businesses should ban non-essential travel for work;
d. Local businesses should, when feasible, allow employees to take leave to care for children while the schools are closed;
e. Local businesses should establish capabilities for employees to work from home where feasible;
f. Local businesses should, to the extent feasible, respond to requests from the City to contribute to and participate in such activities and efforts as may assist in responding to the current COVID-19 health crisis;
g. Residents should refrain from hoarding household and medical supplies, such as water, sanitizer, diapers, non-perishable food items, and toilet paper;
h. Residents should refrain from reselling purchases of household items for exorbitant prices;
i. Residents should, to the extent feasible without compromising other advisories, patronize and shop at local businesses, merchants, and vendors;
j. Residents should sign up for "Alert Santa Fe" at https://www.santafenm.gov/alertsantafe; and
k. Residents should identify opportunities to use technology to maintain supportive community engagement and contact with the City's most vulnerable populations;
l. Residents who have lost their jobs due to the economic aftershock of the COVID-19 virus should immediately apply for and take the steps necessary to begin to receive unemployment benefits through the State of New Mexico; and
m. Residents should make the "Santa Fe Promise" at https://www.santafenm.gov/promise:

I promise to:

Act as if I carry the coronavirus.
Maintain social distancing of at least six feet.
Wear a face covering, wash my hands, use sanitizer.
Buy from local businesses that also make this promise.
Practice patience, compassion, empathy, connection, respect and love.
We will keep Santa Fe safe. We will keep Santa Fe open.

Together.

n. Residents should support local businesses that take the Santa Fe Promise.

IV. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and order the City Manager to disseminate the contents hereof to the public by appropriate news media and any other means at her disposal.

V. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Santa Fe, New Mexico.

DONE at Santa Fe, New Mexico this 27th **day of** July, **2020 at the hour of** 3:04 **o'clock** P **M. (MDT).**

ALAN M. WEBBER, MAYOR
City of Santa Fe, New Mexico

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
(S E A L)

EXHIBIT E

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-39

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

EXTENDING THE STATE OF EMERGENCY AS PROCLAIMED BY THE MAYOR ON SEPTEMBER 28, 2020 BY SIXTY (60) DAYS, PURSUANT TO SECTION 20-1.3(C) SFCC 1987.

WHEREAS, on March 13, 2020, Mayor Webber proclaimed a state of emergency in response to the Public Health Emergency that is the rapid spread of an infection called COVID-19 (COVID-19 Proclamation I); and

WHEREAS, on March 16, 2020 the Governing Body voted to extend Mayor Webber's Proclamation, pursuant to SFCC 1987, Section 20-1.3(C); and

WHEREAS, on March 23, 2020 the Mayor proclaimed a state of emergency a second time in response to the continuing Public Health Emergency, due to the continued and growing emergency (COVID-19 Proclamation II); and

WHEREAS, on March 25, 2020, the Governing Body adopted amendments to Section 20-1.3 SFCC 1987 that allow the Governing Body to extend the proclamation of emergency by up to sixty (60) days in the event a public health emergency has been declared by the New Mexico

Department of Health; and

WHEREAS, on May 25, 2020, the Mayor proclaimed a state of emergency in response to the continuing Public Health Emergency a third time, due to the continuing public health emergency that is the COVID-19 pandemic (COVID-19 Proclamation III); and

WHEREAS, on May 27, 2020, the Governing Body extended COVID-19 Proclamation III for sixty days; and

WHEREAS, the COVID-19 pandemic has intensified in Santa Fe since Mayor Webber issued Proclamation III; and

WHEREAS, on July 27, 2020 Mayor Webber proclaimed a state of emergency for a fourth time, due to the continuing public health emergency that is the COVID-19 pandemic (COVID-19 Proclamation IV);

WHEREAS, on July 29th, 2020 the Governing Body extended COVID-19 Proclamation IV for sixty days; and

WHEREAS, Proclamation IV expired on September 27 and the Mayor again proclaimed an emergency on September 28, 2020 (Proclamation V), due to the ongoing pandemic;

WHEREAS, the COVID-19 Proclamation I and the resolution extending it, Resolution No. 2020-10, are attached as Exhibit A; COVID-19 Proclamation II and the resolution extending it, Resolution No. 2020-13 are attached as Exhibit B; COVID-19 Proclamation III and the resolution extending it, Resolution No. 2020-20, are attached as Exhibit C; COVID-19 Proclamation IV and the resolution extended it, Resolution No. 2020-30 are attached as Exhibit D; and

WHEREAS, the Governing Body wishes to extend Proclamation V, attached as Exhibit E, for an additional sixty (60) days pursuant to Section 20-1.3(C).

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Proclamation V is hereby extended by sixty (60) days, expiring at noon

on November 30, 2020, pursuant to Section 20-1.3(C).

PASSED, APPROVED, and ADOPTED this 30th day of September, 2020.

ALAN WEBBER, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2020/Resolutions/2020-39 State of Emergency Extension V

EXHIBIT E

CITY OF SANTA FE

PROCLAMATION OF EMERGENCY V- COVID-19

WHEREAS, pursuant to SFCC 1987, Section 2-1.3, Powers and Duties of the Mayor, the Mayor has, within the City limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

WHEREAS, the City's Emergency Declaration Ordinance, Section 20-1, authorizes the Mayor to proclaim that a state of emergency exists in the city, after consultation with the emergency manager, chief of police, and/or fire chief;

WHEREAS, such an emergency proclamation allows the Mayor to prohibit and/or require certain actions to protect life and property and preserve public peace and safety and, if desired, to request that the Governor of New Mexico proclaim a state of emergency pursuant to the Riot Control Act;

WHEREAS, Santa Fe City Code 1987, Section 2-16, defines "emergency" as any "occasion or instance, such as a terrorist attack, terrorist threat, civil unrest, wildland and urban fire, flood, hazardous materials spill, nuclear accident, aircraft accident, earthquake, hurricane, tornado, tropical storm, tsunami, war-related disaster, public health or medical emergency, other occurrence requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment";

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another;

WHEREAS, on January 31, 2020, the United States Department of Health and

Human Services Secretary declared a public health emergency as a precautionary tool to facilitate preparation and availability of resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in the nation through its support of state and community-led preparedness and response efforts;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2, as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico;

WHEREAS, the spread of COVID-19 in New Mexico and the City of Santa Fe poses a threat to the health, safety, well-being and property of the residents of the City, including the potential loss of life, serious illness resulting from exposure to the COVID-19 virus, significant negative impact on the social, economic, and overall quality of life of the residents of Santa Fe;

WHEREAS, pursuant to the foregoing clauses, I declared an emergency to exist in the City on March 13, 2020 (Proclamation I), and I recognized the continuation of the emergency on March 23, 2020 in a second proclamation (Proclamation II), in a third proclamation on May 26, 2020 (Proclamation III), and in a fourth proclamation on July 27, 2020 (Proclamation IV);

WHEREAS, Secretary Kunkel issued a series of Public Health Orders on March 13, 2020; March 16, 2020; March 19, 2020; March 23, 2020; March 25, 2020; April 6, 2020; April 11, 2020; April 30, 2020; May 5, 2020; May 15, 2020, May 27, 2020; June 1, 2020; June 12, 2020; June 15, 2020; June 30, 2020; and July 13, 2020,

imposing various restrictions on activities within New Mexico;

WHEREAS, the New Mexico Department of Health continues to identify a growing number of individuals who have been infected with COVID-19 in New Mexico, including 970 cases in Santa Fe County;

WHEREAS, after certain restrictions were lifted in May and June, rates of COVID-19 infection increased, exceeding earlier rates of transmission;

WHEREAS, Proclamation IV expired on September 27, 2020;

WHEREAS, the Centers for Disease Control (CDC) has issued guidance during the pandemic that cautions against moving or clearing encampments due to the risk of dispersing people in the community and breaking their connections with service providers; and

WHEREAS, certain orders I previously issued remain necessary to protect life and property and preserve public peace and safety of the people of Santa Fe; and other orders I previously issued require updating to address the continuing pandemic.

THEREFORE, I, ALAN M. WEBBER, Mayor of the City of Santa Fe, New Mexico, hereby declare, that a public health emergency continues to exist in the City. As a result of these emergencies, events have caused or are causing danger of injury or damage to persons and property within the City. I hereby invoke all Section 2-1.3, and Sections 20-1.2 through 20-1.5 of the Santa Fe City Code of 1987, to preserve the peace and order in the City of Santa Fe.

In particular, I take the following actions:

I. I order the following:

a. Gatherings of greater than ten (10) persons may not take place on the public streets, public parks, or other open areas, either public or private, or in any public building. When the State's limitations on mass gatherings permit greater numbers of persons to gather, this order shall allow the same number to gather. As used herein, "public" means a place used for a public purpose or as a place of public gathering, owned or under the control of the City and privately owned properties that are open to the public, other than in religious and educational buildings as permitted pursuant to State orders

that are in place. "Assemble or gather" refers to intentional assemblies of a group of people; it does not refer to the use of a space by individuals or families in the location's regular course of business, such as shopping at a retail location where there are more than ten (10) customers or entering a commercial establishment that happens to have more than ten (10) people present at that time. This prohibition also does not apply to weddings or funerals, shelters, or hospitals and other healthcare settings;

b. The City Manager shall address the public health emergency by

i. reducing or eliminating in-person provision of City services wherever possible;

ii. directing City employees, as applicable, to perform emergency functions;

iii. facilitating the implementation of the policy adopted to evaluate and address the public health risks, environmental compliance of, and locations of encampments, and to provide residents of such encampments with access to available social services, including transitional housing in furtherance of the Built for Zero initiative to eliminate chronic homelessness, to avoid removing encampments when leaving them in place furthers the purposes of this Order; and

iii. working with the Human Resources Department to issue policies regarding COVID-19 Safe Practices for City employees;

d. All available resources of the City shall be used to address the emergency as reasonably necessary;

e. Mayor Pro-Tem Signe Lindell, City Manager Jarel LaPan Hill, and Finance Director Mary McCoy are my substitute signatories for emergency obligation of funds during the pendency of the declared emergency;

f. The City Clerk shall accept electronic signatures, including scanned copies of hard-copy signature, on legal documents, including but not limited to contracts, property documents, ordinances, resolutions, etc., and shall attest to electronic signatures of the Mayor and City Manager or their designees, if submitted by the signatory through the signatory's email;

g. Until the New Mexico Supreme Court lifts its injunction, landlords are prohibited from evicting residential tenants. In addition, landlords are

prohibited from evicting commercial tenants who are unable to pay rent on time because, due to the public health emergency, they have been prohibited from opening to the public. This order does not seek to change the obligation of a tenant to pay rent and strongly encourages discussions of payment plans between landlords and tenants;

h. Lodgers Tax payments shall continue on a monthly basis and payments previously delayed during the public health emergency shall be submitted during Fiscal Year 2021, along with future payments; at least one quarter of the delayed amount shall be paid by the end of each quarter of Fiscal Year 2021;

i. The moratorium on water shut-offs will continue, while charges will continue to accrue and be owed;

m. The April 6, 2020 orders I issued regarding grocery stores and super markets and the April 10, 2020 exceptions to those orders that I issued for use of reusable bags remain in place;

n. Unless a healthcare provider instructs otherwise or the State exempts a person from wearing a facial covering for a reason such as age, all individuals shall wear a mask or facial covering in public settings except when eating or drinking; as used here "public setting" means places that are open to the public where there is not six-feet of distance between persons at all times;

o. Retail; restaurants; office and call centers; grocery stores and farmers' markets; youth programs; manufacturing, warehouse, and food production; hotels, resorts and lodging; golf courses; tour operators; houses of worship; farms, ranches and dairy producers and processors; veterinarians and animal care facilities; construction and field operations; automobile dealerships and services; and medical providers and other industries shall comply with the State-issued CSPs, which are accessible online: https://cv.nmhealth.org/covid-safe-practices/; and

p. Employers shall not retaliate against employees for seeking to comply with CSPs, advocating that their place of business follow CSPs, or reporting non-compliance with CSPs.

II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following precautions in their day-to-day activities:

a. For those who have traveled into New Mexico from out of the state or out of the country, self-quarantine as required in the Executive Order in place at the time of return to the State. Currently that Order requires a fourteen (14) day self-quarantine when an individual returns to New Mexico from a State or Country with a positive test rate of greater than a seven-day rolling average of 80 per 100,000 individuals or five percent (5%) or greater, unless they have obtained a negative COVID-19 test within three (3) days before or after arrival in the state;
b. For those at high risk (elderly and immune compromised individuals), secure three (3) months of all necessary medical prescriptions;
c. Avoid contact with people who are sick;
d. Practice "social distancing", by maintain six (6) feet between yourself and others;
e. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;
f. If soap and water are not available, use a hand sanitizer that contains at least sixty percent (60%) alcohol;
g. To the extent possible, avoid touching high-touch surfaces in public places, such as elevator buttons, door handles, and handrails;
h. Use a tissue or your sleeve to cover your hand or finger if you must touch something;
i. Avoid handshaking;
j. Avoid touching your face, nose, and eyes;
k. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example, tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones, and other electronic devices); and
l. Avoid all non-essential travel, including plane trips and cruise ships.

III. I also encourage the following:

a. To the greatest extent possible, all residents should practice safe and hygienic conduct as the City begins to re-open, as described in Section

II of this Order, above, and as further described in the Santa Fe Promise, below;

b. Local businesses should offer paid sick leave whenever feasible;
c. Local businesses should ban non-essential travel for work;
d. Local businesses should, when feasible, allow employees to take leave to care for children while the schools are closed;
e. Local businesses should establish capabilities for employees to work from home where feasible;
f. Local businesses should, to the extent feasible, respond to requests from the City to contribute to and participate in such activities and efforts as may assist in responding to the current COVID-19 health crisis;
g. Residents should refrain from hoarding household and medical supplies, such as water, sanitizer, diapers, non-perishable food items, and toilet paper;
h. Residents should refrain from reselling purchases of household items for exorbitant prices;
i. Residents should, to the extent feasible without compromising other advisories, patronize and shop at local businesses, merchants, and vendors;
j. Residents should sign up for "Alert Santa Fe" at https://www.santafenm.gov/alertsantafe;
k. Residents should identify opportunities to use technology to maintain supportive community engagement and contact with the City's most vulnerable populations;
l. Residents who have lost their jobs due to the economic aftershock of the COVID-19 virus should immediately apply for and take the steps necessary to begin to receive unemployment benefits through the State of New Mexico;
m. Residents should make the "Santa Fe Promise" at https://www.santafenm.gov/promise:

I promise to:

Act as if I carry the coronavirus.
Maintain social distancing of at least six feet.
Wear a face covering, wash my hands, use sanitizer.
Buy from local businesses that also make this promise.
Practice patience, compassion, empathy, connection, respect and love.

We will keep Santa Fe safe. We will keep Santa Fe open. Together.

n. Residents should support local businesses that take the Santa Fe Promise; and
o. Residents should download the NOVID phone application, which allows for user alerts of their actual or potential exposure to individuals who have a positive COVID-19 test within a relevant time period, without either collecting or disclosing the users' personal identifying information or locations.

IV. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and order the City Manager to disseminate the contents hereof to the public by appropriate news media and any other means at her disposal.

V. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Santa Fe, New Mexico.

DONE at Santa Fe, New Mexico this 28th day of September, 2020 at the hour of 11:30 o'clock A .M. (MDT).

ALAN M. WEBBER, MAYOR
City of Santa Fe, New Mexico

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
(S E A L)

EXHIBIT F

[redacted]

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-44

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

EXTENDING THE STATE OF EMERGENCY AS PROCLAIMED BY THE MAYOR ON NOVEMBER 30, 2020 BY SIXTY (60) DAYS, PURSUANT TO SECTION 20-1.3(C) SFCC 1987.

WHEREAS, on March 13, 2020, Mayor Webber proclaimed a state of emergency in response to the Public Health Emergency that is the rapid spread of an infection called COVID-19 (COVID-19 Proclamation I); and

WHEREAS, on March 16, 2020 the Governing Body voted to extend Mayor Webber's Proclamation, pursuant to SFCC 1987, Section 20-1.3(C); and

WHEREAS, on March 23, 2020 the Mayor proclaimed a state of emergency a second time in response to the continuing Public Health Emergency, due to the continued and growing emergency (COVID-19 Proclamation II); and

WHEREAS, on March 25, 2020, the Governing Body adopted amendments to Section 20-1.3 SFCC 1987 that allow the Governing Body to extend the proclamation of emergency by up to sixty (60) days in the event a public health emergency has been declared by the New Mexico

Department of Health; and

WHEREAS, on May 25, 2020, the Mayor proclaimed a state of emergency in response to the continuing Public Health Emergency a third time, due to the continuing public health emergency (COVID-19 Proclamation III); and

WHEREAS, on May 27, 2020, the Governing Body extended COVID-19 Proclamation III for sixty days; and

WHEREAS, the COVID-19 pandemic has intensified in Santa Fe since Mayor Webber issued Proclamation III; and

WHEREAS, on July 27, 2020 Mayor Webber proclaimed a state of emergency for a fourth time, due to the continuing public health emergency (COVID-19 Proclamation IV);

WHEREAS, on July 29, 2020 the Governing Body extended COVID-19 Proclamation IV for sixty days; and

WHEREAS, on September 28, 2020, Mayor Webber proclaimed a state of emergency for a fifth time, due to the continuing public health emergency (COVID-19 Proclamation V);

WHEREAS, on September 30, 2020 the Governing Body extended COVID-19 Proclamation V for sixty days;

WHEREAS on November 30, Mayor Webber proclaimed a state of emergency for a sixth time, due to the continuing public health emergency (COVID-19 Proclamation VI); and

WHEREAS, the COVID-19 Proclamation I and the resolution extending it, Resolution No. 2020-10, are attached as Exhibit A; COVID-19 Proclamation II and the resolution extending it, Resolution No. 2020-13 are attached as Exhibit B; COVID-19 Proclamation III and the resolution extending it, Resolution No. 2020-20, are attached as Exhibit C; COVID-19 Proclamation IV and the resolution extended it, Resolution No. 2020-30 are attached as Exhibit D; COVID-19 Proclamation V and the resolution extending it, Resolution No. 2020-39 are attached as Exhibit E; and COVID-19 Proclamation VI is attached as Exhibit F; and

WHEREAS, if not extended, Proclamation VI would expire on December 3, 2020. The Governing Body wishes to extend Proclamation VI for an additional sixty (60) days pursuant to Section 20-1.3(C).

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Proclamation VI is hereby extended by sixty (60) days, expiring at noon on January 30, 2021, pursuant to Section 20-1.3(C).

PASSED, APPROVED, and ADOPTED this 1st day of December, 2020.

ALAN WEBBER, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2020/Resolutions/2020-44 State of Emergency Extension VI

CITY OF SANTA FE

PROCLAMATION OF EMERGENCY VI- COVID-19

November 30, 2020

WHEREAS, pursuant to SFCC 1987, Section 2-1.3, Powers and Duties of the Mayor, the Mayor has, within the City limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

WHEREAS, the City's Emergency Declaration Ordinance, Section 20-1, authorizes the Mayor to proclaim that a state of emergency exists in the city, after consultation with the emergency manager, chief of police, and/or fire chief;

WHEREAS, such an emergency proclamation allows the Mayor to prohibit and/or require certain actions to protect life and property and preserve public peace and safety and, if desired, to request that the Governor of New Mexico proclaim a state of emergency pursuant to the Riot Control Act;

WHEREAS, Santa Fe City Code 1987, Section 2-16, defines "emergency" as any "occasion or instance, such as a terrorist attack, terrorist threat, civil unrest, wildland and urban fire, flood, hazardous materials spill, nuclear accident, aircraft accident, earthquake, hurricane, tornado, tropical storm, tsunami, war-related disaster, public health or medical emergency, other occurrence requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment";

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another;

WHEREAS, on January 31, 2020, the United States Department of Health and

Human Services Secretary declared a public health emergency as a precautionary tool to facilitate preparation and availability of resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in the nation through its support of state and community-led preparedness and response efforts;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2, as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico;

WHEREAS, the spread of COVID-19 in New Mexico and the City of Santa Fe poses a threat to the health, safety, well-being and property of the residents of the City, including the potential loss of life, serious illness resulting from exposure to the COVID-19 virus, significant negative impact on the social, economic, and overall quality of life of the residents of Santa Fe;

WHEREAS, pursuant to the foregoing clauses, I declared an emergency to exist in the City on March 13, 2020 (Proclamation I), and I recognized the continuation of the emergency in a second proclamation on March 23, 2020 (Proclamation II), in a third proclamation on May 26, 2020 (Proclamation III), in a fourth proclamation on July 27, 2020 (Proclamation IV), and in a fifth proclamation on September 28, 2020 (Proclamation V);

WHEREAS, Secretary Kunkel issued a series of Public Health Orders on March 13, 2020; March 16, 2020; March 19, 2020; March 23, 2020; March 25, 2020; April 6, 2020; April 11, 2020; April 30, 2020; May 5, 2020; May 15, 2020, May 27, 2020;

June 1, 2020; June 12, 2020; June 15, 2020; June 30, 2020; July 13, 2020, July 30, 2020; August 28, 2020; September 3, 2020; and September 18, 2020; and Acting NMDOH Cabinet Secretary Billy Jimenez issued additional Public Health Orders on October 16, 2020; October 22, 2020; November 5, 2020; November 13, 2020; and November 18, 2020, imposing various restrictions on activities within New Mexico;

WHEREAS, the New Mexico Department of Health continues to identify a growing number of individuals who have been infected with COVID-19 in New Mexico, including 5,053 cases in Santa Fe County as of yesterday, November 29, 2020, nearly five times the number of cases recorded on the date I issued Proclamation V (1,014);

WHEREAS, after certain restrictions were lifted in May and June, rates of COVID-19 infection increased, exceeding earlier rates of transmission;

WHEREAS, Proclamation V expired on November 29, 2020;

WHEREAS, certain orders I previously issued remain necessary to protect life and property and preserve public peace and safety of the people of Santa Fe; and other orders I previously issued require updating to address the continuing pandemic.

THEREFORE, I, ALAN M. WEBBER, Mayor of the City of Santa Fe, New Mexico, hereby declare, that a public health emergency continues to exist in the City. As a result of these emergencies, events have caused or are causing danger of injury or damage to persons and property within the City. I hereby invoke all Section 2-1.3, and Sections 20-1.2 through 20-1.5 of the Santa Fe City Code of 1987, to preserve the peace and order in the City of Santa Fe.

In particular, I take the following actions:

I. I order the following:

a. Gatherings of greater than five (5) persons, or ten (10) or more vehicles, may not take place on the public streets, public parks, or other open areas, either public or private, or in any public building for coordinated events. When the State's limitations on mass gatherings permit greater numbers of persons to gather, or restrict gatherings to fewer persons, this order shall allow or restrict, as applicable, the same number to gather. As used herein,

"public" means a place used for a public purpose or as a place of public gathering, owned or under the control of the City and privately owned properties that are open to the public, other than in religious and educational buildings as permitted pursuant to State orders that are in place. “Assemble or gather” refers to intentional assemblies of a group of people; it does not refer to the use of a space by individuals or families in the location’s regular course of business, such as shopping at a retail location where there are more than five (5) customers or entering a commercial establishment that happens to have more than five (5) people present at that time. This prohibition also does not apply to weddings or funerals, shelters, or hospitals and other healthcare settings;

b. The City Manager shall address the public health emergency by

i. reducing or eliminating in-person provision of City services wherever possible;

ii. directing City employees, as applicable, to perform emergency functions;

iii. facilitating the implementation of the policy adopted to evaluate and address the public health risks, environmental compliance of, and locations of encampments, and to provide residents of such encampments with access to available social services, including transitional housing in furtherance of the Built for Zero initiative to eliminate chronic homelessness, to avoid removing encampments when leaving them in place furthers the purposes of this Order; and

iii. working with the Human Resources Department to issue policies regarding COVID-19 Safe Practices for City employees;

c. All available resources of the City shall be used to address the emergency as reasonably necessary, including the following practices:

i. The City shall only provide in-person services to persons following COVID-Safe practices and requirements, including wearing a facial covering;

ii. If a member of the public requiring services has a medical reason to not wear a facial covering, and provides City employees evidence of that medical limitation, City employees shall find a reasonable way to accommodate providing services to that member of the public that does not include putting the employee at risk; and

iii. City employees shall participate in regular COVID-19 testing if the

City enters an agreement with the New Mexico Department of Health and New Mexico Environment Department for an exemption to Public Health Order Rapid Response COVID-19 closure protocols or if the City otherwise provides regular/surveillance testing for employees.

d. Before entering City facilities, members of the public must wear a facial covering and they shall review the posted COVID-19 Screening Questions regarding their COVID-19 positivity risk. Entry into City buildings is prohibited if the answer to any of the following screening questions is yes:

i. Are you currently experiencing, or have you experienced in the past 14 days, fever of 100.4 degrees or greater, cough, shortness of breath or difficulty breathing, sore throat, new loss of taste or smell, chills, body aches, nausea, diarrhea, or vomiting?

ii. In the past 14 days, have you had close contact with anyone that you know had COVID-19 or COVID-like symptoms? "Close contact" includes being 6 feet or closer for more than 15 minutes with the person?

iii. Have you been tested for COVID-19 and are waiting to receive test results?

iv. In the past 14 days, have you traveled outside the state or country?

v. In the past 14 days, has a public health or medical professional told you to self-monitor, self-isolate, or self-quarantine because of concerns about COVID-19 infection?

e. Mayor Pro-Tem Signe Lindell, City Manager Jarel LaPan Hill, and Finance Director Mary McCoy are my substitute signatories for emergency obligation of funds during the pendency of the declared emergency;

f. The City Clerk shall accept electronic signatures, including scanned copies of hard-copy signature, on legal documents, including but not limited to contracts, property documents, ordinances, resolutions, etc., and shall attest to electronic signatures of the Mayor and City Manager or their designees, if submitted by the signatory through the signatory's email;

g. Until the New Mexico Supreme Court lifts its injunction, landlords are prohibited from taking action towards evicting residential tenants who are unable to pay rent due to COVID-19. In addition, landlords are prohibited from evicting commercial tenants who are unable to pay rent on time because, due to

the public health emergency, they have been prohibited from opening to the public. This order does not seek to change the obligation of a tenant to pay rent and strongly encourages discussions of payment plans between landlords and tenants;

h. Lodgers Tax payments shall continue on a monthly basis and payments previously delayed during the public health emergency shall be submitted during Fiscal Year 2021, along with future payments; at least one quarter of the delayed amount shall be paid by the end of each quarter of Fiscal Year 2021;

i. The moratorium on water shut-offs will continue, while charges will continue to accrue and be owed;

j. The April 6, 2020 orders I issued regarding grocery stores and super markets and the April 10, 2020 exceptions to those orders that I issued for use of reusable bags remain in place to the extent the orders are more restrictive than the currently effective Public Health Order:

A. The City shall not enforce its Single-Use Carryout Bags Ordinance, Section 21-8. In particular, the City shall not:

1. Penalize the use of single-use plastic bags;
2. Require the collection of $0.10/bag environmental service fee; or
3. Collect environmental service fees.

B. Grocery stores and supermarkets shall:

1. Not permit customers to bring their own reusable/"from home" bags;
2. Provide, without charging the City's environmental service fee, recyclable paper bags, compostable plastic bags, or single use plastic bags;
3. Provide access to handwashing facilities and break time for employees to wash their hands;
4. Provide customers access to restrooms for hand washing, if possible, without causing other risks to customers or employees;
5. Disinfect handles of all shopping carts and baskets in between uses or provide customers access to disinfecting options, as accessible, at the point or points of entry;
6. Provide disinfecting wipes, as available, at cash registers and other high-touch points in the store;

7. Provide, as available, alcohol-based sanitizers in the store for customer use;

8. Implement procedures to sanitize frequent touch-points in the store throughout the day;

9. Discontinue all self-service salad bars, self-service food stations, including bulk food stations, and product tasting or sampling stands;

10. Designate employees or use management personnel to ensure that stores follow the Center for Disease Control's cleaning guidelines; implement procedures to ensure that both customers and employees remain at least six (6) feet apart, including "social distancing lines" that begin six (6) feet from checkout counters; and monitor social distancing and assist customers in practicing social distancing in the stores;

11. "Meter" the number of customers in the store at any one time, limiting the number to no more than thirty percent (30%) of the facility's listed fire capacity or a number that allows for a six (6) foot radius between all customers when considering all infrastructure in the facilities, by designating staff, management personnel, or contractors to count the number of customers entering and leaving the store and to enforce the limits;

12. Mark off six (6) foot distances between waiting spaces where lines form, both inside and outside the store; and

13. Provide exclusive hours for self-identified high-risk populations and limit entrances during those special shopping hours to twenty-five percent (25%) of maximum occupancy levels.

k. The November 20, 2020 orders I issued closing sports courts, including basketball courts, handball courts, and any other courts; playground equipment; athletic fields; and other shared infrastructure in City parks, remain in effect as follows:

1. All sports courts, including basketball courts, handball courts, and any other courts in the City's parks are closed to the public and may not be used;

2. All playground equipment in City parks is closed to the public and may not be used;

3. All athletic fields in City parks are closed; and

4. All other infrastructure in City parks, including skate parks, is

closed to the public and may not be used.

l. Unless a healthcare provider instructs otherwise or the State exempts a person from wearing a facial covering for a reason such as age, all individuals shall wear a mask or facial covering in public settings except when eating or drinking; as used here "public setting" means places that are open to the public;

m. Retail; restaurants; office and call centers; grocery stores and farmers' markets; youth programs; manufacturing, warehouse, and food production; hotels, resorts and lodging; golf courses; tour operators; houses of worship; farms, ranches and dairy producers and processors; veterinarians and animal care facilities; construction and field operations; automobile dealerships and services; and medical providers and other industries shall comply with the State-issued CSPs to the extent applicable, which are accessible online: https://cv.nmhealth.org/covid-safe-practices/; and

n. Employers shall not retaliate against employees for seeking to comply with CSPs, advocating that their place of business follow CSPs, or reporting non-compliance with CSPs.

II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following precautions in their day-to-day activities:

a. For those who have traveled into New Mexico from out of the state or out of the country, self-quarantine as required in the Executive Order in place at the time of return to the State. Currently that Order requires a fourteen (14) day self-quarantine when an individual returns to New Mexico from a State or Country with a positive test rate of greater than a seven-day rolling average of 80 per 100,000 individuals or five percent (5%) or greater and advises such a quarantine after return from a state with a positivity rate lower than 80 per 100,000 or 5 percent or greater;
b. For those at high risk (elderly and immune compromised individuals), secure three (3) months of all necessary medical prescriptions;
c. Avoid contact with people who are sick;
d. Practice "social distancing", by maintain six (6) feet between yourself and others;

e. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;
f. If soap and water are not available, use a hand sanitizer that contains at least sixty percent (60%) alcohol;
g. To the extent possible, avoid touching high-touch surfaces in public places, such as elevator buttons, door handles, and handrails;
h. Use a tissue or your sleeve to cover your hand or finger if you must touch something;
i. Avoid handshaking;
j. Avoid touching your face, nose, and eyes;
k. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example, tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones, and other electronic devices); and
l. Avoid all non-essential travel, including plane trips and cruise ships.

III. I also encourage the following:

a. To the greatest extent possible, all residents should practice safe and hygienic conduct as the City begins to re-open, as described in Section II of this Order, above, and as further described in the Santa Fe Promise, below;
b. Local businesses should offer paid sick leave whenever feasible;
c. Local businesses should ban non-essential travel for work;
d. Local businesses should, when feasible, allow employees to take leave to care for children while the schools are closed;
e. Local businesses should establish capabilities for employees to work from home where feasible;
f. Local businesses should, to the extent feasible, respond to requests from the City to contribute to and participate in such activities and efforts as may assist in responding to the current COVID-19 health crisis;
g. Residents should refrain from hoarding household and medical supplies, such as water, sanitizer, diapers, non-perishable food items, and toilet paper;
h. Residents should refrain from reselling purchases of household items for exorbitant prices;
i. Residents should, to the extent feasible without compromising other advisories, patronize and shop at local businesses, merchants, and

vendors;

j. Residents should sign up for "Alert Santa Fe" at https://www.santafenm.gov/alertsantafe;
k. Residents should identify opportunities to use technology to maintain supportive community engagement and contact with the City's most vulnerable populations;
l. Residents who have lost their jobs due to the economic aftershock of the COVID-19 virus should immediately apply for and take the steps necessary to begin to receive unemployment benefits through the State of New Mexico;
m. Residents should make the "Santa Fe Promise" at https://www.santafenm.gov/promise:
   I promise to:
   Act as if I carry the coronavirus.
   Maintain social distancing of at least six feet.
   Wear a face covering, wash my hands, use sanitizer.
   Buy from local businesses that also make this promise.
   Practice patience, compassion, empathy, connection, respect and love.
   We will keep Santa Fe safe. We will keep Santa Fe open. Together.
n. Residents should support local businesses that take the Santa Fe Promise; and
o. Residents should download the NOVID phone application, which allows for user alerts of their actual or potential exposure to individuals who have a positive COVID-19 test within a relevant time period, without either collecting or disclosing the users' personal identifying information or locations.

IV. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and order the City Manager to disseminate the contents hereof to the public by appropriate news media and any other means at her disposal.

V. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Santa Fe, New Mexico.

DONE at Santa Fe, New Mexico this 30th day of November, 2020 at the hour of 10:39 **o'clock** A **.M. (MDT).**

ALAN M. WEBBER, MAYOR
City of Santa Fe, New Mexico

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
(S E A L)

EXHIBIT G

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-9

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

EXTENDING THE STATE OF EMERGENCY AS PROCLAIMED BY THE MAYOR ON JANUARY 30, 2021 BY FIFTY-SIX (56) DAYS, EXPIRING AT NOON ON MARCH 29, 2021, PURSUANT TO SECTION 20-1.3(C) SFCC 1987.

WHEREAS, on March 13, 2020, Mayor Webber proclaimed a state of emergency in response to the Public Health Emergency that is the rapid spread of an infection called COVID-19 (COVID-19 Proclamation I); and

WHEREAS, on March 16, 2020 the Governing Body voted to extend Mayor Webber's Proclamation, pursuant to SFCC 1987, Section 20-1.3(C); and

WHEREAS, on March 23, 2020 the Mayor proclaimed a state of emergency a second time in response to the continuing Public Health Emergency, due to the continued and growing emergency (COVID-19 Proclamation II); and

WHEREAS, on March 25, 2020, the Governing Body adopted amendments to Section 20-1.3 SFCC 1987 that allow the Governing Body to extend the proclamation of emergency by up to sixty (60) days in the event a public health emergency has been declared by the New Mexico

Department of Health; and

WHEREAS, the public health emergency declared by the New Mexico Department of Health continues; and

WHEREAS, subsequent to the Governing Body's amendments to Section 20-1.3, the Mayor has proclaimed a state of emergency four times in response to the continuing public health on May 25, 2020, July 27, 2020, September 28, 2020; and November 30, 2021 (COVID-19 Proclamations II through VI); and

WHEREAS, on December 1, 2020 the Governing Boy extended COVID-19 Proclamation VI for sixty days; and

WHEREAS, while vaccine distribution has begun since Mayor Webber issued Proclamation VI, supply of the vaccine is currently limited and inoculation to levels that will provide herd immunity will take months to implement; and

WHEREAS, COVID-19 infections continue to spread and new, more infectious variants have emerged; and

WHERES, at least one of the more infectious variants has been detected in New Mexico, requiring ongoing diligence and City response to suppress the virus; and

WHEREAS, the COVID-19 Proclamation I and the resolution extending it, Resolution No. 2020-10, are attached as Exhibit A; COVID-19 Proclamation II and the resolution extending it, Resolution No. 2020-13 are attached as Exhibit B; COVID-19 Proclamation III and the resolution extending it, Resolution No. 2020-20, are attached as Exhibit C; COVID-19 Proclamation IV and the resolution extended it, Resolution No. 2020-30 are attached as Exhibit D; COVID-19 Proclamation V and the resolution extending it, Resolution No. 2020-39 are attached as Exhibit E; COVID-19 Proclamation VI is attached as Exhibit F; and COVID-19 Proclamation VII is attached as Exhibit G; and

WHEREAS, if not extended, Proclamation VII would expire on February 2, 2021; and

WHEREAS, the Governing Body wishes to extend Proclamation VI for an additional fifty-six (56) days pursuant to Section 20-1.3(C), an extension timeline that will allow, if needed, reissuance by the Mayor and extension by the Governing Body on March 31, 2021, a regularly scheduled Governing Body meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Proclamation VII is hereby extended by fifty-six (56) days, expiring at noon on March 29, 2021, pursuant to Section 20-1.3(C).

PASSED, APPROVED, and ADOPTED this 1st day of February, 2021.

ALAN WEBBER, MAYOR

ATTEST:

Kristine Mihelcic (Feb 3, 2021 11:31 MST)

KRISTINE MIHELCIC, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2021/Resolutions/2021-9 State of Emergency Extension VII

CITY OF SANTA FE

PROCLAMATION OF EMERGENCY VII- COVID-19

January 30, 2021

WHEREAS, pursuant to Santa Fe City Code (SFCC) 1987, Section 2-1.3, "Powers and Duties of the Mayor," the Mayor has, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

WHEREAS, the City's Emergency Declaration Ordinance, Section 20-1, authorizes the Mayor to proclaim that a state of emergency exists, after consultation with the emergency manager, chief of police, and/or fire chief;

WHEREAS, such an emergency proclamation allows the Mayor to prohibit and/or require certain actions to protect life and property and to preserve public peace and safety;

WHEREAS, SFCC 1987, Section 2-16, defines "emergency" to include a "public health or medical emergency" and other occurrences "requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment";

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") that had not previously circulated in humans, but that is contagious and easily spreads from one person to another and one country to another;

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the COVID-19 outbreak a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2;

WHEREAS, the spread of COVID-19 in New Mexico and the City of Santa Fe has killed, harmed, impaired economically and suppressed the wellbeing of the residents of the City, resulting in an ongoing and significant negative impact on the social, economic, and overall quality of life of the residents of Santa Fe;

WHEREAS, pursuant to the foregoing clauses, I declared an emergency to exist in the City on March 13, 2020, (Proclamation I), March 23, 2020 (Proclamation II), May 26, 2020 (Proclamation III), July 27, 2020 (Proclamation IV), September 28, 2020 (Proclamation V); and November 30, 2020 (Proclamation VI);

WHEREAS, Secretary Kunkel issued a series of Public Health Orders and Amendments on March 13, 2020; March 16, 2020; March 19, 2020; March 23, 2020; March 25, 2020; April 6, 2020; April 11, 2020; April 30, 2020; May 5, 2020; May 15, 2020, May 27, 2020; June 1, 2020; June 12, 2020; June 15, 2020; June 30, 2020; July 13, 2020, July 30, 2020; August 28, 2020; September 3, 2020; and September 18, 2020; Acting NMDOH Cabinet Secretary Billy Jimenez issued additional Public Health Orders and Amendments on October 16, 2020; October 22, 2020; November 5, 2020; November 13, 2020; November 18, 2020; November 30, 2020; December 2, 2020; and December 9, 2020; and Secretary-Designate Tracie C. Collins issued additional Public Health Orders and Amendments on December 15, 2020; December 23, 2020; December 30, 2020; and January 8, 2021, imposing various restrictions on activities within New Mexico;

WHEREAS, a growing number of individuals have been infected with COVID-19 in New Mexico, including 9,064 cases in Santa Fe County as of yesterday, November 29, 2020, nearing twice the number of cases recorded on the date I issued

Proclamation VI (5,053);

WHEREAS, since my last proclamation, several new variants of the COVID-19 virus have been identified that have a higher infection rate, which results in the virus causing more illness and deaths per capita;

WHEREAS, at least two instances of one of the known, more infectious variants were recently detected in New Mexico;

WHEREAS, 114 Santa Fe County residents have died from COVID-19 infections as of January 29, 2021;

WHEREAS, the State's public health order is now structured to classify counties as "Red", "Yellow" or "Green", depending upon their COVID-19 positivity rates and infection rates;

WHEREAS, as counties lower their positivity rates and infection rates, they move from Red to Yellow to Green and, as the risk of virus spread declines, restrictions are also reduced on indoor dining, retail occupancy, and the size of gatherings;

WHEREAS, despite recent improvements in infection and positivity rates, Santa Fe County remains classified as "Red";

WHEREAS, since my last proclamation, the first COVID-19 vaccines were authorized for experimental use in the United States and approximately 250,000 doses have been administered in New Mexico;

WHEREAS, two doses of the vaccines, administered several weeks apart, and a waiting period following the second shot, are needed to achieve the vaccines' approximate 95% efficacy rate;

WHEREAS, current demand for both of the vaccines far exceeds their availability, and that imbalance between supply and demand is expected to continue for several months;

WHEREAS, on a population level, the efficacy of the vaccines on infection rates is improved if the vaccine is administered when the local infection rate is lower: 95% prevention of infection for 100 cases that would otherwise occur results in 5 cases,

while 95% prevention of 1000 cases that would otherwise occur results in 50 cases;

WHEREAS, COVID-19 testing is now readily available for free for those with or without symptoms and for those with or without known exposures;

WHEREAS, recently, local COVID-19 test results often come back within 48 hours;

WHEREAS, free, at-home COVID-19 saliva tests are available for New Mexicans from "https://learn.vaulthealth.com/nm/";

WHEREAS, regular, surveillance testing for COVID-19 helps to suppress the infection rate by notifying asymptomatic persons who test positive that they need to quarantine;

WHEREAS, increased, regular testing of asymptomatic persons also improves the positivity rate by increasing the likelihood that there will be more tests with a negative result;

WHEREAS, many City employees are unable to telework and they are, therefore, at risk of spreading the virus to others and contracting the virus while working;

WHEREAS, a number of the City's firefighters are trained to test for COVID-19 and other City employees could be trained to assist with implementing regular, surveillance testing;

WHEREAS, Proclamation VI expired at noon today, January 30, 2021; and

WHEREAS, certain orders I previously issued remain necessary to protect life and property and preserve the public peace and safety of the people of Santa Fe; other orders I previously issued require updating to address the continuing pandemic; and certain new orders will improve the City of Santa Fe's pace of recovery from, and limit the harm caused by, the pandemic.

THEREFORE, I, ALAN M. WEBBER, Mayor of the City of Santa Fe, New Mexico, hereby declare, that a public health emergency continues to exist in the City. As a result, events have caused and are causing danger of injury or damage to persons and property within the city. I hereby invoke all Section 2-1.3, and Sections

20-1.2 through 20-1.5 of the Santa Fe City Code of 1987, to preserve the peace and order in the City of Santa Fe.

In particular, I take the following actions:

I. I order the following:

a. Gatherings of greater than five (5) persons, or ten (10) or more vehicles, may not take place on the public streets, public parks, or other open areas, either public or private, or in any public building for coordinated events while Santa Fe County is classified as "Red" under the State's public health order. When Santa Fe County's NMDOH "Red to Green" status changes to Yellow or Green, this order shall allow or restrict, as applicable, the number of persons and vehicles permitted under the State's limitations for that level of risk to gather. As used herein, "public" means a place used for a public purpose or as a place of public gathering, owned or under the control of the City and privately owned properties that are open to the public, other than in religious and educational buildings as permitted pursuant to State orders that are in place. "Assemble or gather" refers to intentional assemblies of a group of people; it does not refer to the use of a space by five or more individuals or by families in a location's regular course of business. That is, this prohibition does not restrict a person from shopping at a retail location where there are already more than five (5) customers or from entering a commercial establishment that happens to have more than five (5) people present at that time. This prohibition also does not apply to shelters, hospitals, or other healthcare settings;

b. The City Manager shall address the public health emergency by

i. reducing or eliminating in-person provision of City services wherever possible;

ii. directing City employees, as applicable, to perform emergency functions;

iii. facilitating the implementation of the policy adopted to evaluate and address the public health risks, environmental compliance of, and locations of encampments, and to provide residents of such encampments with access to available social services, including transitional housing in furtherance of the Built for Zero initiative to eliminate chronic homelessness, to avoid removing encampments,

other than encampments in City parks, when leaving them in place furthers the purposes of this Order; and

iv. working with the Human Resources Department to issue policies regarding COVID-19 Safe Practices for City employees;

c. All available resources of the City shall be used to address the emergency as reasonably necessary, including the following:

i. The City shall only provide in-person services to persons who are following COVID Safe Practices (CSPs) and requirements, including wearing a facial covering;

ii. If a member of the public requiring services has a medical reason to not wear a facial covering, City employees shall find a reasonable way to accommodate providing services to that member of the public that does not include putting employees at risk;

iii. Should the City's temporary administrative and sick leave authorized pursuant to Resolution No. 2020-11 and the City Manager's existing administrative leave authority not be sufficient to implement the New Mexico Department of Health's recommended quarantining time periods for close contacts, positive cases, and/or to allow the care of family members who are at home due to the limitations imposed under the declared emergency, the City Manager shall provide administrative leave up to the permitted hours and pursuant to the other limitations that were permitted under the federal leave benefits that expired on December 31, 2020 under the Families First Coronavirus Response Act (FFCRA), including Emergency Paid Sick Leave (EPSL) and Expanded Family and Medical Leave (EFMLA); and

iv. Upon availability and notice, City employees shall participate in regular/surveillance testing provided by the City, during the work day, as follows:

A. Employees who cannot telework a majority of their time shall be tested on at least an every-other-weekly basis;

B. Employees who telework a majority of their time shall be tested or shall self-administer an at-home test on at least a monthly basis;

C. Employees who only telework from home are encouraged but not required to get tested on a regular basis; and

D. Employees who provide the City's Human Resources Department documentation that they have received a

COVID-19 vaccine and the associated booster shot shall be exempt from testing requirements two weeks after receipt of their booster shot;

d. Before entering City facilities, members of the public must wear a facial covering and they shall review the posted COVID-19 Screening Questions regarding their COVID-19 positivity risk. Entry into City buildings is prohibited if the answer to any of the following screening questions is yes:

i. Are you currently experiencing, or have you experienced in the past 14 days, fever of 100.4 degrees or greater, cough, shortness of breath or difficulty breathing, sore throat, new loss of taste or smell, chills, body aches, nausea, diarrhea, or vomiting?

ii. In the past 14 days, have you had close contact with anyone that you know had COVID-19 or COVID-like symptoms? "Close contact" includes being 6 feet or closer for more than 15 minutes with the person?

iii. Have you been tested for COVID-19 and are waiting to receive test results?

iv. In the past 14 days, have you traveled outside the state or country?

v. In the past 14 days, has a public health or medical professional told you to self-monitor, self-isolate, or self-quarantine because of concerns about COVID-19 infection?

e. Mayor Pro-Tem Signe Lindell, City Manager Jarel LaPan Hill, and Finance Director Mary McCoy are my substitute signatories for emergency obligation of funds during the pendency of the declared emergency;

f. The City Clerk shall accept electronic signatures, including scanned copies of hard-copy signature, on legal documents, including but not limited to contracts, property documents, ordinances, resolutions, etc., and shall attest to electronic signatures of the Mayor and City Manager or their designees, if submitted by the signatory through the signatory's email;

g. Until the New Mexico Supreme Court lifts its injunction, landlords are prohibited from taking action towards evicting residential tenants who are unable to pay rent due to COVID-19. In addition, landlords are prohibited from evicting commercial tenants who are unable to pay rent on time because, due to the public health emergency, they have been prohibited from opening

to the public. This order does not seek to change the obligation of a tenant to pay rent and strongly encourages discussions of payment plans between landlords and tenants;

h. Lodgers Tax payments shall continue on a monthly basis and payments previously delayed during the public health emergency shall be submitted during Fiscal Year 2021, along with future payments; at least one quarter of the delayed amount shall be paid by the end of each quarter of Fiscal Year 2021;

i. The moratorium on water shut-offs will continue, while charges will continue to accrue and be owed;

j. The April 6, 2020 orders I issued regarding grocery stores and super markets remain in place, except that, beginning on February 7, 2021, the City shall again enforce its Single-Use Carryout Bags Ordinance, Section 21-8, in relation to in-store purchases from grocery stores and super markets.

i. Beginning immediately, stores must permit customers to use reusable bags, but may require customers to pack the bags the customers are reusing.

ii. To the extent that the following orders are more restrictive than the current effective Public Health Order, grocery stores and supermarkets shall:

1. Provide access to handwashing facilities and break time for employees to wash their hands;
2. Provide customers access to restrooms for hand washing, if possible, without causing other risks to customers or employees;
3. Disinfect handles of all shopping carts and baskets in between uses or provide customers access to disinfecting options, as accessible, at the point or points of entry;
4. Provide disinfecting wipes, as available, at cash registers and other high-touch points in the store;
5. Provide, as available, alcohol-based sanitizers in the store for customer use;
6. Implement procedures to sanitize frequent touch-points in the store throughout the day;
7. Discontinue all self-service salad bars, self-service food

stations, including bulk food stations, and product tasting or sampling stands;

8. Designate employees or use management personnel to ensure that stores follow the Center for Disease Control's cleaning guidelines; implement procedures to ensure that both customers and employees remain at least six (6) feet apart, including "social distancing lines" that begin six (6) feet from checkout counters; and monitor social distancing and assist customers in practicing social distancing in the stores;

9. "Meter" the number of customers in the store at any one time, limiting the number to no more than thirty percent (30%) of the facility's listed fire capacity or a number that allows for a six (6) foot radius between all customers when considering all infrastructure in the facilities, by designating staff, management personnel, or contractors to count the number of customers entering and leaving the store and to enforce the limits;

10. Mark off six (6) foot distances between waiting spaces where lines form, both inside and outside the store; and

11. Provide exclusive hours for self-identified high-risk populations and limit entrances during those special shopping hours to twenty-five percent (25%) of maximum occupancy levels.

k. Unless a healthcare provider instructs otherwise or the State exempts a person from wearing a facial covering for a reason such as age, all individuals shall wear a mask or facial covering in public settings except when eating or drinking; as used here "public setting" means places that are open to the public;

l. Retail; restaurants; office and call centers; grocery stores and farmers' markets; youth sports and programs; intercollegiate sports; professional sports; manufacturing, warehouse, and food production; hotels, resorts and lodging; golf courses; tour operators; houses of worship; farms, ranches and dairy producers and processors; veterinarians and animal care facilities; construction and field operations; automobile dealerships and services; salons, spas, tattoo parlors and related services; gyms; drive-in events; museums and cultural institutions; youth livestock shows; agritourism establishments; and medical providers and other industries shall comply with

the State-issued CSPs to the extent applicable, which are accessible online: https://cv.nmhealth.org/covid-safe-practices/; and

m. Employers shall not retaliate against employees for seeking to comply with CSPs, advocating that their place of business follow CSPs, or reporting non-compliance with CSPs.

II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following precautions in their day-to-day activities:

a. For those who have traveled into New Mexico from out of the state or out of the country, self-quarantine as required in the Executive Order in place at the time of return to the State. Currently that Order requires a fourteen (14) day self-quarantine when an individual returns to New Mexico from a State or Country with a positive test rate of greater than a seven-day rolling average of 80 per 100,000 individuals or five percent (5%) or greater and advises such a quarantine after return from a state with a positivity rate lower than 80 per 100,000 or 5 percent or greater;
b. For those at high risk (elderly and immune compromised individuals), secure three (3) months of all necessary medical prescriptions;
c. Avoid contact with people who are sick;
d. Practice "social distancing", by maintain six (6) feet between yourself and others;
e. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;
f. If soap and water are not available, use a hand sanitizer that contains at least sixty percent (60%) alcohol;
g. To the extent possible, avoid touching high-touch surfaces in public places, such as elevator buttons, door handles, and handrails;
h. Use a tissue or your sleeve to cover your hand or finger if you must touch something;
i. Avoid handshaking;
j. Avoid touching your face, nose, and eyes;
k. Clean and disinfect your home to remove germs: practice routine

cleaning of frequently touched surfaces (for example, tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones, and other electronic devices); and

l. Avoid all non-essential travel, including plane trips and cruise ships.

III. I also encourage the following:

a. To the greatest extent possible, all residents should practice safe and hygienic conduct as the City begins to re-open, as described in Section II of this Order, above, and as further described in the Santa Fe Promise, below;
b. Local businesses should offer paid sick leave whenever feasible;
c. Local businesses should ban non-essential travel for work;
d. Local businesses should, when feasible, allow employees to take leave to care for children while the schools are closed;
e. Local businesses should establish capabilities for employees to work from home where feasible;
f. Local businesses should, to the extent feasible, respond to requests from the City to contribute to and participate in such activities and efforts as may assist in responding to the current COVID-19 health crisis;
g. Residents should refrain from hoarding household and medical supplies, such as water, sanitizer, diapers, non-perishable food items, and toilet paper;
h. Residents should refrain from reselling purchases of household items for exorbitant prices;
i. Residents should, to the extent feasible without compromising other advisories, patronize and shop at local businesses, merchants, and vendors;
j. Residents should sign up for "Alert Santa Fe" at https://www.santafenm.gov/alertsantafe;
k. Residents should identify opportunities to use technology to maintain supportive community engagement and contact with the City's most vulnerable populations;
l. Residents who have lost their jobs due to the economic aftershock of the COVID-19 virus should immediately apply for and take the steps necessary to begin to receive unemployment benefits through the State of New Mexico;
m. Residents should make the "Santa Fe Promise" at

https://www.santafenm.gov/promise:

I promise to:

Act as if I carry the coronavirus.
Maintain social distancing of at least six feet.
Wear a face covering, wash my hands, use sanitizer.
Buy from local businesses that also make this promise.
Practice patience, compassion, empathy, connection, respect and love.
We will keep Santa Fe safe. We will keep Santa Fe open. Together.

n. Residents should support local businesses that take the Santa Fe Promise;
o. Residents should download the NOVID phone application, which allows for user alerts of their actual or potential exposure to individuals who have a positive COVID-19 test within a relevant time period, without either collecting or disclosing the users' personal identifying information or locations;
p. Residents should register for the COVID-19 vaccine at https://cvvaccine.nmhealth.org and update their profile regularly; and
q. Residents and visitors should regularly obtain COVID-19 testing, either in person at one of the many local testing sites, searchable on the NMDOH website (https://cvprovider.nmhealth.org/directory.html) or at home, using a self-administered saliva test, available at https://learn.vaulthealth.com/nm/.

IV. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and order the City Manager to disseminate the contents hereof to the public by appropriate news media and any other means at her disposal.

V. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Santa Fe, New Mexico.

DONE at Santa Fe, New Mexico this 30 day of January, 2021 at the hour of_____ o'clock __.M. (MDT).

_

ALAN M. WEBBER, MAYOR
City of Santa Fe, New Mexico

ATTEST:

Kristine Mihelcic (Jan 30, 2021 12:05 MST)

KRISTINE MIHELCIC, CITY CLERK
(S E A L)

EXHIBIT H

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-19

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

EXTENDING THE STATE OF EMERGENCY AS PROCLAIMED BY THE MAYOR ON MARCH 29, 2021 BY FIFTY-FOUR (54) DAYS, EXPIRING AT NOON ON MAY 24, 2021, PURSUANT TO SECTION 20-1.3(C) SFCC 1987.

WHEREAS, on March 13, 2020, Mayor Webber proclaimed a state of emergency in response to the Public Health Emergency that is the rapid spread of an infection called COVID-19 (COVID-19 Proclamation I); and

WHEREAS, on March 16, 2020 the Governing Body voted to extend Mayor Webber's Proclamation, pursuant to SFCC 1987, Section 20-1.3(C); and

WHEREAS, on March 23, 2020 the Mayor proclaimed a state of emergency a second time in response to the continuing Public Health Emergency, due to the continued and growing emergency (COVID-19 Proclamation II); and

WHEREAS, on March 25, 2020, the Governing Body adopted amendments to Section 20-1.3 SFCC 1987 that allow the Governing Body to extend the proclamation of emergency by up to sixty (60) days in the event a public health emergency has been declared by the New Mexico

Department of Health; and

WHEREAS, the public health emergency declared by the New Mexico Department of Health continues; and

WHEREAS, subsequent to the Governing Body's amendments to Section 20-1.3, the Mayor has proclaimed a state of emergency four times in response to the continuing public health on May 25, 2020, July 27, 2020, September 28, 2020; November 30, 2021, and January 20, 2021 (COVID-19 Proclamations II through VII); and

WHEREAS, on February 1st, 2021 the Governing Boy extended COVID-19 Proclamation VII for fifty-six days; and

WHEREAS, while vaccine distribution has begun since Mayor Webber issued Proclamation VI, supply of the vaccine is currently limited and inoculation to levels that will provide herd immunity will take months to implement; and

WHEREAS, COVID-19 infections continue to spread and new, more infectious variants have emerged; and

WHERES, at least one of the more infectious variants has been detected in New Mexico, requiring ongoing diligence and City response to suppress the virus; and

WHEREAS, the COVID-19 Proclamation I and the resolution extending it, Resolution No. 2020-10, are attached as Exhibit A; COVID-19 Proclamation II and the resolution extending it, Resolution No. 2020-13 are attached as Exhibit B; COVID-19 Proclamation III and the resolution extending it, Resolution No. 2020-20, are attached as Exhibit C; COVID-19 Proclamation IV and the resolution extended it, Resolution No. 2020-30 are attached as Exhibit D; COVID-19 Proclamation V and the resolution extending it, Resolution No. 2020-39 are attached as Exhibit E; COVID-19 Proclamation VI and the resolution extending it, Resolution No. 2020-44 are attached as Exhibit F; COVID-19 Proclamation VII and the resolution extending it, Resolution No. 2021-9 are attached as Exhibit G; and COVID-19 Proclamation VIII is attached as Exhibit H;

and

WHEREAS, if not extended, Proclamation VIII would expire on April 1, 2021; and

WHEREAS, the Governing Body wishes to extend Proclamation VIII for an additional fifty-four (54) days pursuant to Section 20-1.3(C), an extension timeline that will allow, if needed, reissuance by the Mayor and extension by the Governing Body on May 26, 2021, a regularly scheduled Governing Body meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Proclamation VIII is hereby extended by fifty-four (54) days, expiring at noon on May 24, 2021, pursuant to Section 20-1.3(C).

PASSED, APPROVED, and ADOPTED this 31st day of March, 2021.

ALAN WEBBER, MAYOR

ATTEST:

KRISTINE MIHELCIC, CITY CLERK

Kristine Mihelcic (Apr 2, 2021 12:21 MDT)

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2021/Resolutions/2021-19 State of Emergency Extension VIII

EXHIBIT H

CITY OF SANTA FE
PROCLAMATION OF EMERGENCY VIII- COVID-19
March 29, 2021

WHEREAS, pursuant to Santa Fe City Code (SFCC) 1987, Section 2-1.3, "Powers and Duties of the Mayor," the Mayor has, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

WHEREAS, the City's Emergency Declaration Ordinance, Section 20-1, authorizes the Mayor to proclaim that a state of emergency exists, after consultation with the emergency manager, chief of police, and/or fire chief;

WHEREAS, such an emergency proclamation allows the Mayor to prohibit and/or require certain actions to protect life and property and to preserve public peace and safety;

WHEREAS, SFCC 1987, Section 2-16, defines "emergency" to include a "public health or medical emergency" and other occurrences "requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment";

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") that had not previously circulated in humans, but that is contagious and easily spreads from one person to another and one country to another;

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the COVID-19 outbreak a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2;

WHEREAS, the spread of COVID-19 in New Mexico and the City of Santa Fe has killed, harmed, impaired economically and suppressed the wellbeing of the residents of the City, resulting in an ongoing and significant negative impact on the social, economic, and overall quality of life of the residents of Santa Fe;

WHEREAS, pursuant to the foregoing clauses, I declared an emergency to exist in the City on March 13, 2020, (Proclamation I), March 23, 2020 (Proclamation II), May 26, 2020 (Proclamation III), July 27, 2020 (Proclamation IV), September 28, 2020 (Proclamation V); November 30, 2020 (Proclamation VI); and January 30, 2021 (Proclamation VII);

WHEREAS, former Secretary Kunkel, formerly acting NMDOH Cabinet Secretary Billy Jimenez, and current Secretary Tracie C. Collins have issued a series of Public Health Orders and Amendments, approximately 38 of them, beginning on March 13, 2020; , with the most recent issued on March 15, 2021, imposing various restrictions on activities within New Mexico;

WHEREAS, a growing number of individuals have been infected with COVID-19 in New Mexico, including 9,834 cases in Santa Fe County as of March 28, 2021;

WHEREAS, since my last proclamation, the new variants of the COVID-19 virus, at least some with higher infection rates, have continued to spread;

WHEREAS, at least two instances of one of the known, more infectious variants were recently detected in New Mexico;

WHEREAS, 142 Santa Fe County residents have died from COVID-19 infections as of March 28, 2021;

WHEREAS, the State's public health order is now structured to classify counties as "Red", "Yellow", "Green", or "Turquoise" depending upon their COVID-19 positivity rates, infection rates, and the continuity of those rates;

WHEREAS, as counties lower their positivity rates and infection rates, they move from Red to Yellow to Green and, as the risk of virus spread declines, restrictions are also reduced on indoor dining, retail occupancy, and the size of gatherings;

WHEREAS, if a county remains within the positivity rates and infection rates of the Green level for the two weeks after being classified as Green, it becomes classified "Turquoise", lifting COVID-19 restrictions significantly;

WHEREAS, Santa Fe County recently became classified as "Green", then "Turquoise";

WHEREAS, with the Turquoise classification, gatherings of 150 persons are permitted, bars and clubs in the County may operate with 33% indoor capacity, and recreation centers and large event centers in the County may operate at 50% capacity;

WHEREAS, if Santa Fe's positivity or infection rates fall below the Green level, the County will fall two levels, to the "Yellow" category, with significantly restricted gatherings and business operations;

WHEREAS, while reopening steps are positive for the County's economy, they also increase the risk of infection for unvaccinated persons;

WHEREAS, three COVID-19 vaccines have now been authorized for experimental use in the United States and more than 1 million doses have been administered in New Mexico;

WHEREAS, for two of the three vaccines, two doses of the vaccines, administered several weeks apart, and a waiting period following the second shot, are needed to achieve the vaccines' approximate 95% efficacy rate;

WHEREAS, current demand for all three of the vaccines far exceeds their availability, and that imbalance between supply and demand is expected to continue through at least April and May;

WHEREAS, on a population level, the efficacy of the vaccines on infection rates is improved if the vaccine is administered when the local infection rate is lower: 95% prevention of infection for 100 cases that would otherwise occur results in 5 cases, while 95% prevention of 1000 cases that would otherwise occur results in 50 cases;

WHEREAS, COVID-19 testing is now readily available for free for those with or without symptoms and for those with or without known exposures;

WHEREAS, recently, local COVID-19 test results often come back within 48 hours;

WHEREAS, free, at-home COVID-19 saliva tests are available for New Mexicans from "https://learn.vaulthealth.com/nm/";

WHEREAS, regular, surveillance testing for COVID-19 helps to suppress the infection rate by notifying asymptomatic persons who test positive that they need to quarantine;

WHEREAS, increased, regular testing of asymptomatic persons also improves the positivity rate by increasing the likelihood that there will be more tests with a negative result;

WHEREAS, many City employees are unable to telework and they are, therefore, at risk of spreading the virus to others and contracting the virus while working;

WHEREAS, a number of the City's firefighters are trained to test for COVID-19 and other City employees could be trained to assist with implementing regular, surveillance testing;

WHEREAS, Proclamation VII expired at noon today, March 29, 2021; and

WHEREAS, certain orders I previously issued remain necessary to protect life and property and preserve the public peace and safety of the people of Santa Fe; other orders I previously issued require updating to address the continuing pandemic; and

certain new orders will improve the City of Santa Fe's pace of recovery from, and limit the harm caused by, the pandemic.

THEREFORE, I, ALAN M. WEBBER, Mayor of the City of Santa Fe, New Mexico, hereby declare, that a public health emergency continues to exist in the City. As a result, events have caused and are causing danger of injury or damage to persons and property within the city. I hereby invoke all Section 2-1.3, and Sections 20-1.2 through 20-1.5 of the Santa Fe City Code of 1987, to preserve the peace and order in the City of Santa Fe.

In particular, I take the following actions:

I. I order the following:

a. This order shall allow or restrict, as applicable, the number of persons and vehicles permitted to assemble or gather under the State's mass gathering limitations and exceptions, except that, inside City-owned buildings, gatherings for events shall be limited to 150 while Santa Fe County is classified as "Turquoise", shall decrease to 10 if the County's classification becomes Yellow, and return to 20 if the County's classification subsequently returns to Green. The City's Convention Center may increase its occupancy to the State's event center occupancy levels beginning May 6, if the County's classification remains Turquoise or the equivalent;

b. The City Manager shall address the public health emergency by

i. increasing in-person City services and access to facilities gradually and in a safety-conscious manner, and as City employees have the opportunity to get vaccinated, as long as local infection rates continue to remain in the Green levels or lower and City employee rates remain near zero;

ii. directing City employees, as applicable, to perform emergency functions;

iii. facilitating the continued application of the policy adopted to evaluate and address the public health risks, environmental compliance of, and locations of encampments, and to provide residents of such encampments with access to available social services, including transitional housing in furtherance of the Built for Zero initiative to eliminate chronic homelessness, to avoid removing encampments,

other than encampments in City parks, when leaving them in place furthers the purposes of this Order; and

iv. working with the Human Resources Department to issue policies regarding COVID-19 Safe Practices for City employees;

c. Resources of the City shall be used to address the emergency as reasonably necessary, including the following:

i. The City shall only provide in-person services to persons who are following COVID Safe Practices (CSPs) and requirements, including wearing a facial covering;

ii. If a member of the public requiring services has a medical reason to not wear a facial covering, City employees shall find a reasonable way to accommodate providing services to that member of the public that does not include putting employees at risk;

iii. Upon availability and notice, City employees shall participate in regular/surveillance testing provided by the City, during their scheduled work days, as follows:

A. Employees who cannot telework a majority of their time shall be tested on at least an every-other-weekly basis;

B. Employees who telework a majority of their time shall be tested or shall self-administer an at-home test on at least a monthly basis;

C. Employees who only telework from home are encouraged but not required to get tested on a regular basis; and

D. Employees who provide the City's Human Resources Department documentation that they have received a COVID-19 vaccine and the associated booster shot, if applicable, shall be exempt from testing requirements beginning the month when two weeks have lapsed after receipt of their booster shot or two weeks after the vaccine administration, if there is not a booster shot for the vaccine;

d. Before entering City facilities, members of the public must wear a facial covering and they shall review the posted COVID-19 Screening Questions regarding their COVID-19 positivity risk. Entry into City buildings is prohibited if the answer to any of the following screening questions is yes:

i. Are you currently experiencing, or have you experienced in the past 14 days, fever of 100.4 degrees or greater, cough, shortness of breath or

difficulty breathing, sore throat, new loss of taste or smell, chills, body aches, nausea, diarrhea, or vomiting?
ii. In the past 14 days, have you had close contact with anyone that you know had COVID-19 or COVID-like symptoms? "Close contact" includes being 6 feet or closer for more than 15 minutes with the person?
iii. Have you been tested for COVID-19 and are waiting to receive test results?
v. In the past 14 days, has a public health or medical professional told you to self-monitor, self-isolate, or self-quarantine because of concerns about COVID-19 infection?

e. Mayor Pro-Tem Signe Lindell, City Manager Jarel LaPan Hill, and Finance Director Mary McCoy are my substitute signatories for emergency obligation of funds during the pendency of the declared emergency;

f. The City Clerk shall accept electronic signatures, including scanned copies of hard-copy signature, on legal documents, including but not limited to contracts, property documents, ordinances, resolutions, etc., and shall attest to electronic signatures of the Mayor and City Manager or their designees, if submitted by the signatory through the signatory's email;

g. Until the New Mexico Supreme Court lifts its injunction, landlords are prohibited from taking action towards evicting residential tenants who are unable to pay rent due to COVID-19. In addition, landlords are prohibited from evicting commercial tenants who are unable to pay rent on time because, due to the public health emergency, they have been prohibited from opening to the public. This order does not seek to change the obligation of a tenant to pay rent and strongly encourages discussions of payment plans between landlords and tenants;

h. Lodgers' Tax payments shall continue on a monthly basis and payments previously delayed during the public health emergency shall be submitted during Fiscal Year 2021, along with future payments; at least one quarter of the delayed amount shall be paid by the end of each quarter of Fiscal Year 2021;

i. The moratorium on water shut-offs will continue, while charges will

continue to accrue and be owed;

j. In situations in which compliance with COVID-19 Safe Practices (CSPs) would result in higher per-person fees in City-owned recreation facilities, the associated fee shall be reduced proportionately to allow compliance without increased fees;

j. Unless a healthcare provider instructs otherwise or the State exempts a person from wearing a facial covering for a reason such as age, all individuals shall wear a mask or facial covering in public settings except when eating or drinking; as used here "public setting" means places that are open to the public;

k. Retail; restaurants and bars; office and call centers; grocery stores and farmers' markets; youth club sports; youth programs; intercollegiate sports; professional sports; manufacturing, warehouse, and food production; hotels, resorts and lodging; golf courses; tour operators; houses of worship; farms, ranches and dairy producers and processors; veterinarians and animal care facilities; construction and field operations; automobile dealerships and services; salons, spas, tattoo parlors and related services; gyms; drive-in events; museums and cultural institutions; youth livestock shows; agritourism establishments; ski areas; recreational facilities; and entertainment venues; and medical providers and other industries shall comply with the State-issued CSPs to the extent applicable, which are accessible online: https://cv.nmhealth.org/covid-safe-practices/; and

l. Employers shall not retaliate against employees for seeking to comply with CSPs, advocating that their place of business follow CSPs, or reporting non-compliance with CSPs.

II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following precautions in their day-to-day activities:

a. Avoid contact with people who are sick;
b. Practice "social distancing", by maintain six (6) feet between yourself and others;

c. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;
d. If soap and water are not available, use a hand sanitizer that contains at least sixty percent (60%) alcohol;
e. To the extent possible, avoid touching high-touch surfaces in public places, such as elevator buttons, door handles, and handrails;
f. Use a tissue or your sleeve to cover your hand or finger if you must touch something;
g. Avoid handshaking;
h. Avoid touching your face, nose, and eyes;
i. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example, tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones, and other electronic devices); and
j. Avoid all non-essential travel, including plane trips and cruise ships.

III. I also encourage the following:

a. To the greatest extent possible, all residents should practice safe and hygienic conduct as the City begins to re-open, as described in Section II of this Order, above, and as further described in the Santa Fe Promise, below;
b. Local businesses should offer paid sick leave whenever feasible;
c. Local businesses should limit non-essential travel for work;
d. Local businesses should, when feasible, allow employees to take leave to care for children when schools are closed;
e. Local businesses should continue to allow employees to work from home where feasible;
f. Local businesses should, to the extent feasible, respond to requests from the City to contribute to and participate in such activities and efforts as may assist in responding to the current COVID-19 health crisis;
g. Residents should refrain from hoarding household and medical supplies, such as water, sanitizer, diapers, non-perishable food items, and toilet paper;
h. Residents should refrain from reselling purchases of household items for exorbitant prices;
i. Businesses should refrain from price gouging of supplies;

j. Residents should, to the extent feasible without compromising other advisories, patronize and shop at local businesses, merchants, and vendors;
k. Residents should sign up for "Alert Santa Fe" at https://www.santafenm.gov/alertsantafe;
l. Residents should identify opportunities to use technology to maintain supportive community engagement and contact with the City's most vulnerable populations;
m. Residents who have lost their jobs due to the economic aftershock of the COVID-19 virus should immediately apply for and take the steps necessary to begin to receive unemployment benefits through the State of New Mexico;
n. Residents should make the "Santa Fe Promise" at https://www.santafenm.gov/promise:
I promise to:

Act as if I carry the coronavirus.
Maintain social distancing of at least six feet.
Wear a face covering, wash my hands, use sanitizer.
Buy from local businesses that also make this promise.
Practice patience, compassion, empathy, connection, respect and love.
We will keep Santa Fe safe. We will keep Santa Fe open. Together.

o. Residents should support local businesses that take the Santa Fe Promise;
p. Residents should download the NOVID and NM Notify phone applications, which allow for user alerts of their actual or potential exposure to individuals who have a positive COVID-19 test within a relevant time period, without either collecting or disclosing the users' personal identifying information or locations;
q. Residents should register for the COVID-19 vaccine at https://cvvaccine.nmhealth.org and update their profile regularly; and
r. Residents and visitors should regularly obtain COVID-19 testing, either in person at one of the many local testing sites, searchable on the NMDOH website (https://cvprovider.nmhealth.org/directory.html) or at home, using a self-administered saliva test, available at https://learn.vaulthealth.com/nm/.

IV. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and order the City Manager to disseminate the contents hereof to the public by appropriate news media and any other means at her disposal.

V. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Santa Fe, New Mexico.

DONE at Santa Fe, New Mexico this 29 **day of** March**, 2021 at the hour of** 4 **o'clock** P **.M. (MDT).**

_____

ALAN M. WEBBER, MAYOR
City of Santa Fe, New Mexico

ATTEST:

Kristine Mihelcic (Mar 29, 2021 16:33 MDT)

_____

KRISTINE MIHELCIC, CITY CLERK
(S E A L)

EXHIBIT I

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-31

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

EXTENDING THE STATE OF EMERGENCY AS PROCLAIMED BY THE MAYOR ON MAY 24, 2021 BY FORTY-SEVEN (47) DAYS, EXPIRING AT NOON ON JULY 12, 2021, PURSUANT TO SECTION 20-1.3(C) SFCC 1987.

WHEREAS, on March 13, 2020, Mayor Webber proclaimed a state of emergency in response to the Public Health Emergency that is the rapid spread of an infection called COVID-19 (COVID-19 Proclamation I); and

WHEREAS, on March 16, 2020 the Governing Body voted to extend Mayor Webber's Proclamation, pursuant to SFCC 1987, Section 20-1.3(C); and

WHEREAS, on March 23, 2020 the Mayor proclaimed a state of emergency a second time in response to the continuing Public Health Emergency, due to the continued and growing emergency (COVID-19 Proclamation II); and

WHEREAS, on March 25, 2020, the Governing Body adopted amendments to Section 20-1.3 SFCC 1987 that allow the Governing Body to extend the proclamation of emergency by up to sixty (60) days in the event a public health emergency has been declared by the New Mexico

Department of Health; and

WHEREAS, the public health emergency declared by the New Mexico Department of Health continues; and

WHEREAS, subsequent to the Governing Body's amendments to Section 20-1.3, the Mayor has proclaimed a state of emergency seven times in response to the continuing public health on May 25, 2020, July 27, 2020, September 28, 2020; November 30, 2021, January 20, 2021, March 29, 2021, and May 24, 2021 (COVID-19 Proclamations II through VIII); and

WHEREAS, in Santa Fe County, at least 72.2% of eligible residents ages 16 or older have had at least one dose of a COVID-19 vaccine and at least 60.6% are fully vaccinated; and

WHEREAS, COVID-19 infections continue to spread, and the current 7-day rolling average of cases in Santa Fe County is 18, up from 10 when the last emergency proclamation was extended; and

WHERES, several of the more infectious variants, including one from the United Kingdom and on from California, have been detected in New Mexico, requiring ongoing diligence and City response to suppress the spread of the virus; and

WHEREAS, the COVID-19 Proclamation I and the resolution extending it, Resolution No. 2020-10, are attached as Exhibit A; COVID-19 Proclamation II and the resolution extending it, Resolution No. 2020-13 are attached as Exhibit B; COVID-19 Proclamation III and the resolution extending it, Resolution No. 2020-20, are attached as Exhibit C; COVID-19 Proclamation IV and the resolution extended it, Resolution No. 2020-30 are attached as Exhibit D; COVID-19 Proclamation V and the resolution extending it, Resolution No. 2020-39 are attached as Exhibit E; COVID-19 Proclamation VI and the resolution extending it, Resolution No. 2020-44 are attached as Exhibit F; COVID-19 Proclamation VII and the resolution extending it, Resolution No. 2021-9 are attached as Exhibit G; COVID-19 Proclamation VIII and the resolution extending it, Resolution No. 2021-19 are attached as Exhibit H, and COVID-19 Proclamation IX is attached

as Exhibit I; and

WHEREAS, if not extended, Proclamation IX would expire on May 27, 2021; and

WHEREAS, the Governing Body wishes to extend Proclamation IX for an additional forty-seven (47) days pursuant to Section 20-1.3(C), an extension that will allow, if needed, reissuance of a proclamation by the Mayor on July 12th, 2021 and an extension by the Governing Body on July 14, 2021, a regularly scheduled Governing Body meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Proclamation IX is hereby extended by forty-seven (47) days, expiring at noon on July 12, 2021, pursuant to Section 20-1.3(C).

PASSED, APPROVED, and ADOPTED this 26th day of May, 2021.

ALAN WEBBER, MAYOR

ATTEST:

KRISTINE MIHELCIC, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2021/Resolutions/2021-31 State of Emergency Extension IX

EXHIBIT I

CITY OF SANTA FE
PROCLAMATION OF EMERGENCY IX- COVID-19
May 24, 2021

WHEREAS, pursuant to Santa Fe City Code (SFCC) 1987, Section 2-1.3, "Powers and Duties of the Mayor," the Mayor has, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

WHEREAS, the City's Emergency Declaration Ordinance, Section 20-1, authorizes the Mayor to proclaim that a state of emergency exists, after consultation with the emergency manager, chief of police, and/or fire chief;

WHEREAS, such an emergency proclamation allows the Mayor to prohibit and/or require certain actions to protect life and property and to preserve public peace and safety;

WHEREAS, SFCC 1987, Section 2-16, defines "emergency" to include a "public health or medical emergency" and other occurrences "requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment";

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") that had not previously circulated in humans, but that is contagious and easily spreads from one person to another and one country to another;

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the COVID-19 outbreak a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2;

WHEREAS, the spread of COVID-19 in New Mexico and the City of Santa Fe has killed, harmed, impaired economically and suppressed the wellbeing of the residents of the City, resulting in an ongoing and significant negative impact on the social, economic, and overall quality of life of the residents of Santa Fe;

WHEREAS, pursuant to the foregoing clauses, I declared an emergency to exist in the City on March 13, 2020, (Proclamation I), March 23, 2020 (Proclamation II), May 26, 2020 (Proclamation III), July 27, 2020 (Proclamation IV), September 28, 2020 (Proclamation V); November 30, 2020 (Proclamation VI); January 30, 2021 (Proclamation VII); and March 29, 2021 (Proclamation VIII);

WHEREAS, former Secretary Kunkel, formerly acting NMDOH Cabinet Secretary Billy Jimenez, and current Secretary Tracie C. Collins have issued a series of Public Health Orders and Amendments, approximately 43 of them, beginning on March 13, 2020 ,with the most recent issued on May 14, 2021, imposing various restrictions on activities within New Mexico;

WHEREAS, a growing number of individuals have been infected with COVID-19 in New Mexico, including 10,379 cases in Santa Fe County as of May 21, 2021;

WHEREAS, since my last proclamation, the new variants of the COVID-19 virus, at least some with higher infection rates, have continued to spread;

WHEREAS, at least two instances of one of the known, more infectious variants were recently detected in New Mexico;

WHEREAS, 146 Santa Fe County residents have died from COVID-19 infections as of May 21, 2021;

WHEREAS, Santa Fe County, and all other Counties but one, are classified as "Turquoise" under the State's updated public health order that classifies counties as "Red", "Yellow", "Green", or "Turquoise" depending upon their COVID-19 positivity rates, infection rates, vaccination rates, and the continuity of those rates, demonstrating decreased positivity rates and infection rates, and increased vaccination rates, allowing fewer restrictions on indoor dining, retail occupancy, and the size of gatherings;

WHEREAS, with the Turquoise classification, gatherings of 150 persons are permitted, bars and clubs may operate with 33% indoor capacity, and recreation centers and large event centers may operate at 50% capacity;

WHEREAS, the State Public Health Order issued on April 28th, 2021, provides that counties classified as Turquoise will be Turquoise for at least two, two-week periods in a row, making Turquoise a "sticky" classification;

WHEREAS, Santa Fe's infection rate of 2.88% and vaccination rate of 60.6% are well within the ranges required for the State's Turquoise classification, 7.5% and 45% (to be increased by 5% every other week), respectively;

WHEREAS, Santa Fe's positivity rate of 8.8/100,000, however, is relatively close to the State's Turquoise criteria of 10/100, 0000;

WHEREAS, numerous counties risk reclassification into a more restrictive category on June 2, 2021, based on their rates being outside the State's required Turquoise levels on May 17, 2021;;

WHEREAS, since early April, most schools and children's programs have returned to in-person classes and programming;

WHEREAS, while reopening steps are positive for the City's economy, they also increase the risk of infection for unvaccinated persons;

WHEREAS, more than 1,881,000 doses of the three COVID-19 vaccines authorized for experimental use in the United States have been administered in New

Mexico;

WHEREAS, for two of the three vaccines, two doses of the vaccines, administered several weeks apart, and a waiting period following the second dose, are needed to achieve the vaccines' approximate 95% efficacy rate;

WHEREAS, the vaccines are now readily available to persons ages 12 or older, but demand has decreased significantly over the last few weeks due to vaccine hesitancy;

WHEREAS, the Centers for Disease Control (CDC) recently updated its facial covering guidance for outdoor activities for all persons and for indoor activities for vaccinated persons, no longer recommending that facial coverings be used in most outdoor settings and no longer recommending that vaccinated persons wear facial coverings in most indoor settings, recognizing the efficacy of vaccination and the unlikelihood of outdoor transmission;

WHEREAS, unvaccinated persons continue to face a significant risk of infection, particularly in close-contact, indoor settings, and particularly when in close-contact with unvaccinated persons;

WHEREAS, emergency relief funds are available from a number of sources for tenants who are behind on their rent payments;

WHEREAS, the City's Utilities Department works with residents who need to set up a payment plan in order to avoid water shut-offs;

WHEREAS, Proclamation VIII expired at noon today, May 24, 2021; and

WHEREAS, certain orders I previously issued remain necessary to protect life and property and preserve the public peace and safety of the people of Santa Fe; other orders I previously issued require updating to address the continuing pandemic; and certain new orders will improve the City of Santa Fe's pace of recovery from, and limit the harm caused by, the pandemic.

THEREFORE, I, ALAN M. WEBBER, Mayor of the City of Santa Fe, New Mexico, hereby declare, that a public health emergency continues to exist in the City. As a result, events have caused and are causing danger of injury or damage to

persons and property within the city. I hereby invoke all Section 2-1.3, and Sections 20-1.2 through 20-1.5 of the Santa Fe City Code of 1987, to preserve the peace and order in the City of Santa Fe.

In particular, I take the following actions:

I. I order the following:

a. This order shall allow or restrict, as applicable, the number of persons and vehicles permitted to assemble or gather under the State's mass gathering limitations and exceptions; City facilities shall accommodate public use up to the State's permitted occupancies to the extent possible while maintaining the applicable COVID-Safe Practices (CSPs);

b. The City Manager shall address the public health emergency by

i. increasing in-person City services and access to facilities in a safety-conscious manner, as long as local infection rates continue to remain in the Turquoise levels or lower and City employee rates remain near zero;

ii. directing City employees, as applicable, to perform emergency functions;

iii. facilitating the continued application of the policy adopted to evaluate and address the public health risks, environmental compliance of, and locations of encampments, and to provide residents of such encampments with access to available social services, including transitional housing in furtherance of the Built for Zero initiative to eliminate chronic homelessness, to avoid removing encampments, other than encampments in City parks, when leaving them in place furthers the purposes of this Order; and

iv. working with the Human Resources Department to issue policies regarding COVID-19 Safe Practices for City employees.

c. Resources of the City shall be used to address the emergency as reasonably necessary, including the following:

i. The City shall only provide in-person services to persons who are following applicable CSPs and requirements and wearing a facial covering;

ii. If a member of the public requiring services has a medical reason to

not wear a facial covering, City employees shall find a reasonable way to accommodate providing services to that member of the public that does not include putting employees at risk;

iii. City employees who are not vaccinated are encouraged, but not required, to get tested on a regular basis;

d. When inside the publically accessible areas of City facilities, and when engaging in direct, in-person services to members of the public outdoors, employees, and other City actors, such as committee members and contractors, must wear a facial covering.

e. Employees, and other City actors, such as committee members and contractors, may engage in public business inside City facilities without a facial covering when they are both (1) fully vaccinated (two weeks after final dose); and (2) in areas of City facilities that are not open to the public.

f. Before entering City facilities, members of the public shall review the posted COVID-19 Screening Questions regarding their COVID-19 positivity risk. Entry into City buildings is prohibited if the answer to any of the following screening questions is yes:

i. Are you currently experiencing, or have you experienced in the past 14 days, fever of 100.4 degrees or greater, cough, shortness of breath or difficulty breathing, sore throat, new loss of taste or smell, chills, body aches, nausea, diarrhea, or vomiting?

ii. Are you unvaccinated, and either

a. In the past 14 days, had close contact with anyone that you know had COVID-19 or COVID-like symptoms? "Close contact" includes being 6 feet or closer for more than 15 minutes with the person. or

b. Been tested for COVID-19 and are waiting to receive test results?

v. In the past 14 days, has a public health or medical professional told you to self-monitor, self-isolate, or self-quarantine because of concerns about COVID-19 infection?

g. Mayor Pro-Tem Signe Lindell, City Manager Jarel LaPan Hill, and Finance Director Mary McCoy are my substitute signatories for emergency obligation of funds during the pendency of the declared emergency;

h. The City Clerk shall accept electronic signatures, including scanned copies of hard-copy signature, on legal documents, including but not limited to contracts, property documents, ordinances, resolutions, etc., and shall attest to electronic signatures of the Mayor and City Manager or their designees, if submitted by the signatory through the signatory's email;

i. Until the New Mexico Supreme Court lifts its injunction, and to allow time for tenants to apply for and obtain relief funds, landlords are prohibited from taking action towards evicting residential tenants who are unable to pay rent due to COVID-19. In addition, landlords are prohibited from evicting commercial tenants who are unable to pay rent on time because, due to the public health emergency, they have been prohibited from opening to the public. This order does not seek to change the obligation of a tenant to pay rent and strongly encourages tenants to seek relief funds and discussions of payment plans between landlords and tenants;

j. Lodgers' Tax payments shall continue on a monthly basis and payments previously delayed during the public health emergency shall be submitted during Fiscal Year 2021, along with future payments; at least one quarter of the delayed amount shall be paid by the end of each quarter of Fiscal Year 2021;

k. The moratorium on water shut-offs will continue in order to allow customers the opportunity to seek a payment plan and/or relief funds, while charges will continue to accrue and be owed;

l. In situations in which compliance with COVID-19 Safe Practices (CSPs) would result in higher per-person fees in City-owned recreation facilities, the associated fee shall be reduced proportionately to allow compliance without increased fees;

m. Unless a healthcare provider instructs otherwise or the State exempts a person from wearing a facial covering for a reason such as age,

i. persons in Santa Fe must wear a facial covering in health care settings, including but not limited to hospitals, long-term care

facilities, and doctors' offices; public transit; homeless shelters, and as required by federal and state, laws, rules, and regulations;

ii. local businesses and employers may require facial coverings for clients, employees, and customers; and

iii. unvaccinated persons must wear facial coverings in indoor public settings and when attending outdoor ticketed public events, such as concerts and sporting events.

These requirements apply except when persons are eating or drinking. As used here, "public setting" means places that are open to the public;

n. Retail; restaurants and bars; office and call centers; grocery stores and farmers' markets; youth club sports; youth programs; intercollegiate sports; professional sports; manufacturing, warehouse, and food production; hotels, resorts and lodging; golf courses; tour operators; houses of worship; farms, ranches and dairy producers and processors; veterinarians and animal care facilities; construction and field operations; automobile dealerships and services; salons, spas, tattoo parlors and related services; gyms; drive-in events; museums and cultural institutions; youth livestock shows; agritourism establishments; ski areas; recreational facilities; and entertainment venues; and medical providers and other industries shall comply with the State-issued CSPs to the extent applicable, which are accessible online: https://cv.nmhealth.org/covid-safe-practices/; and

o. Employers shall not retaliate against employees for seeking to comply with CSPs, advocating that their place of business follow CSPs, or reporting non-compliance with CSPs.

II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following actions and/or precautions:

a. Wear a facial covering in close-contact situations with unvaccinated persons and persons whose vaccination status is unknown;
b. Seek relief funds for overdue rent and utilities payments. Available sources include the following:

i. For rent and/or mortgage assistance, from the following sources:
    1. For renters, the Emergency Rental Assistance Program: https://www.renthelpnm.org/ ; and
    2. For homeowners, the State of New Mexico Mortgage Finance Authority: https://portal.neighborlysoftware.com/NEWMEXICOHOMEOWNERASSISTANCEFUND/Participant, 505-308-4206, 866-488-0498, or housingassistance@housingnm.org

ii. For assistance with utilities payments, the following organizations have resources: Rent Help NM (linked above with rental assistance sources), Adelante Santa Fe Public Schools, Connect, St. Bede's Episcopal Church, St. Vincent de Paul, The Cathedral Basilica of St. Francis of Assisi, Help New Mexico, San Isidro Catholic Church, Life Link, Our Lady of Guadalupe Church, Income Support Division, Salvation Army, Communities in Schools New Mexico, and Westminster Presbyterian Church;

c. If utilities payments are overdue to the City, set up a payment plan by calling Utility Billing's main number 505-955-4333 and selecting option "2";
d. Avoid contact with people who are sick;
e. Practice "social distancing", by maintain six (6) feet between yourself and others;
f. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;
g. If soap and water are not available, use a hand sanitizer that contains at least sixty percent (60%) alcohol;
h. To the extent possible, avoid touching high-touch surfaces in public places, such as elevator buttons, door handles, and handrails;
i. Use a tissue or your sleeve to cover your hand or finger if you must touch something;
j. Avoid handshaking;
k. Avoid touching your face, nose, and eyes;
l. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example, tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell

phones, and other electronic devices); and

m. Avoid all non-essential travel, including plane trips and cruise ships.

III. I also encourage the following:

a. To the greatest extent possible, all residents should practice safe and hygienic conduct as the City begins to re-open, as described in Section II of this Order, above, and as further described in the Santa Fe Promise, below;
b. Local businesses should offer paid sick leave whenever feasible;
c. Local businesses should limit non-essential travel for work;
d. Local businesses should, when feasible, allow employees to take leave to care for children when schools are closed;
e. Local businesses should continue to allow employees to work from home where feasible;
f. Local businesses should, to the extent feasible, respond to requests from the City to contribute to and participate in such activities and efforts as may assist in responding to the current COVID-19 health crisis;
g. Residents should refrain from hoarding household and medical supplies, such as water, sanitizer, diapers, non-perishable food items, and toilet paper;
h. Residents should refrain from reselling purchases of household items for exorbitant prices;
i. Businesses should refrain from price gouging of supplies;
j. Residents should, to the extent feasible without compromising other advisories, patronize and shop at local businesses, merchants, and vendors;
k. Residents should sign up for "Alert Santa Fe" at https://www.santafenm.gov/alertsantafe;
l. Residents should identify opportunities to use technology to maintain supportive community engagement and contact with the City's most vulnerable populations;
m. Residents who have lost their jobs due to the economic aftershock of the COVID-19 virus should immediately apply for and take the steps necessary to begin to receive unemployment benefits through the State of New Mexico;
n. Residents should make the "Santa Fe Promise" at https://www.santafenm.gov/promise:

I promise to:

Act as if I carry the coronavirus.
Maintain social distancing of at least six feet.
Wear a face covering, wash my hands, use sanitizer.
Buy from local businesses that also make this promise.
Practice patience, compassion, empathy, connection, respect and love.
We will keep Santa Fe safe. We will keep Santa Fe open. Together.

o. Residents should support local businesses that take the Santa Fe Promise;
p. Residents should download the NOVID and NM Notify phone applications, which allow for user alerts of their actual or potential exposure to individuals who have a positive COVID-19 test within a relevant time period, without either collecting or disclosing the users' personal identifying information or locations;
q. Residents should register for the COVID-19 vaccine at https://cvvaccine.nmhealth.org and update their profile regularly; and
r. Residents and visitors who have symptoms or know they have been exposed to someone with COVID-19 should obtain COVID-19 testing, either in person at one of the many local testing sites, searchable on the NMDOH website (https://cvprovider.nmhealth.org/directory.html) or at home, using a self-administered saliva test, available at https://learn.vaulthealth.com/nm/.

IV. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and order the City Manager to disseminate the contents hereof to the public by appropriate news media and any other means at her disposal.

V. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Santa Fe, New Mexico.

DONE at Santa Fe, New Mexico this 24 day of May, 2021 at the hour of 5 o'clock P.M. (MDT).

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ALAN M. WEBBER, MAYOR
City of Santa Fe, New Mexico

ATTEST:

KRISTINE MIHELCIC, CITY CLERK
(S E A L)

CITY OF SANTA FE

PROCLAMATION OF EMERGENCY X- COVID-19

July 11, 2021

WHEREAS, pursuant to Santa Fe City Code (SFCC) 1987, Section 2-1.3, "Powers and Duties of the Mayor," the Mayor has, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

WHEREAS, the City's Emergency Declaration Ordinance, Section 20-1, authorizes the Mayor to proclaim that a state of emergency exists, after consultation with the emergency manager, chief of police, and/or fire chief;

WHEREAS, such an emergency proclamation allows the Mayor to prohibit and/or require certain actions to protect life and property and to preserve public peace and safety;

WHEREAS, SFCC 1987, Section 2-16, defines "emergency" to include a "public health or medical emergency" and other occurrences "requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment";

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") and on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency due to the virus;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared a Public Health Emergency exists in New Mexico and on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the COVID-19 outbreak a condition of public health importance;

WHEREAS, the spread of COVID-19 in New Mexico and the City of Santa Fe has killed, harmed, impaired economically and suppressed the wellbeing of the residents of the City, resulting in an ongoing and significant negative impact on the social, economic, and overall quality of life of the residents of Santa Fe;

WHEREAS, pursuant to the foregoing clauses, I declared an emergency to exist in the City on March 13, 2020, (Proclamation I), March 23, 2020 (Proclamation II), May 26, 2020 (Proclamation III), July 27, 2020 (Proclamation IV), September 28, 2020 (Proclamation V); November 30, 2020 (Proclamation VI); January 30, 2021 (Proclamation VII); March 29, 2021 (Proclamation VIII); and May 24, 2021 (Proclamation IX);

WHEREAS, former Secretary Kunkel, formerly acting NMDOH Cabinet Secretary Billy Jimenez, and former Secretary Tracie C. Collins, issued a series of Public Health Orders and Amendments, approximately 45 of them, beginning on March 13, 2020, with the most recent issued on June 30, 12021, imposing various restrictions on activities within New Mexico;

WHEREAS, a growing number of individuals have been infected with COVID-19 in New Mexico, including 10,642 cases in Santa Fe County as of June 6, 2021;

WHEREAS, since my last proclamation, new variants of the COVID-19 virus, with higher infection rates, have continued to spread and the most infectious variants known are being transmitted in New Mexico;

WHEREAS, 151 Santa Fe County residents have died from COVID-19 infections as of June 6, 2021;

WHEREAS, while reopening steps are positive for the City's economy, they also increase the risk of infection for unvaccinated persons;

WHEREAS, more than 2,203,856 doses of the three COVID-19 vaccines authorized for experimental use in the United States have been administered in New Mexico;

WHEREAS, Centers for Disease Control (CDC) no longer recommends facial coverings for outdoor activities and it no longer recommends facial coverings for

vaccinated persons in indoor settings, recognizing the high efficacy of vaccination and the unlikelihood of outdoor transmission;

WHEREAS, unvaccinated persons continue to face a significant risk of infection, particularly in close-contact, indoor settings, and particularly when in close-contact with unvaccinated persons;

WHEREAS, while New Mexico leads the nation in percent decreases in COVID in the last 14 days, Santa Fe is a national and international tourist destination and neighboring states and countries of origins for tourists are hotspots in percent increases in cases, particularly of the more contagious Delta variant;

WHEREAS, the duration of effectiveness of vaccines is unclear and we do not yet know when and whether boosters should be required;

WHEREAS, emergency relief funds are available from a number of sources for tenants who are behind on their rent and utilities payments;

WHEREAS, the City's Utilities Department works with residents who need to set up a payment plan in order to avoid water shut-offs;

WHEREAS, recently, there has been a spike in the acuity of behavioral health (substance use disorder and mental health) episodes;

WHEREAS, Proclamation IX expired at noon today, July 12, 2021; and

WHEREAS, certain orders I previously issued remain necessary to protect life and property and preserve the public peace and safety of the people of Santa Fe; other orders I previously issued require updating to address the continuing pandemic; and certain new orders will improve the City of Santa Fe's pace of recovery from, and limit the harm caused by, the pandemic.

THEREFORE, I, ALAN M. WEBBER, Mayor of the City of Santa Fe, New Mexico, hereby declare, that a public health emergency continues to exist in the City. As a result, events have caused and are causing danger of injury or damage to persons and property within the city. I hereby invoke all Section 2-1.3, and Sections 20-1.2 through 20-1.5 of the Santa Fe City Code of 1987, to preserve the peace and order in the City of Santa Fe.

In particular, I take the following actions:

I. I order the following:

a. City facilities may accommodate public use to the extent possible while maintaining the applicable COVID-Safe Practices (CSPs) and as not difficult or impossible with regards to in-person public meetings;

b. The City Manager shall address the public health emergency by

i. increasing in-person City services and access to facilities in a safety-conscious manner, as long as local infection rates continue to decrease and as long as City employee rates remain near zero;

ii. directing City employees, as applicable, to perform emergency functions;

iii. facilitating the continued application of the policy adopted to evaluate and address the public health and safety risks, including illegal activity, flash floods, environmental compliance of, and locations of encampments, and to provide residents of such encampments with access to available social services, including transitional housing in furtherance of the Built for Zero initiative to eliminate chronic homelessness, to avoid removing encampments, other than encampments in City parks, when leaving them in place furthers the purposes of this Order; and

iv. working with the Human Resources Department to issue policies regarding COVID-19 Safe Practices for City employees.

c. Resources of the City shall be used to address the emergency as reasonably necessary, including the following:

i. Only persons who are following applicable CSPs and requirements and wearing a facial covering may enter City facilities

ii. If a member of the public requiring indoor services has a medical reason to not wear a facial covering, City employees shall find a reasonable way to accommodate providing services to that member of the public that does not include putting employees and other members of the public at risk; and

iii. City employees who are not vaccinated shall be encouraged, but not required, to get tested on a regular basis.

d. When inside the publicly accessible areas of City facilities employees, and other City actors, such as committee members and contractors, must wear a facial covering.

e. Employees, and other City actors, such as committee members and contractors, may only engage in public business inside City facilities without a facial covering when they are both (1) fully vaccinated (two weeks after final dose); and (2) in areas of City facilities that are not open to the public. "Open to the public" includes areas where the public is present (with or without an appointment) and areas the public may enter without an appointment. An area is not open to the public if it is fully enclosed by walls and a door that separates the area from an area accessible to the public. An area with a partial barrier between City actors and the public is open to the public.

f. Before entering City facilities, members of the public shall review the posted COVID-19 Screening Questions regarding their COVID-19 positivity risk. Entry into City buildings is prohibited if the answer to any of the following screening questions is yes:

i. Are you currently experiencing, or have you experienced in the past 14 days, fever of 100.4 degrees or greater, cough, shortness of breath or difficulty breathing, sore throat, new loss of taste or smell, chills, body aches, nausea, diarrhea, or vomiting?

ii. Are you unvaccinated, and either

a. In the past 14 days, had close contact with anyone that you know had COVID-19 or COVID-like symptoms? "Close contact" includes being 6 feet or closer for more than 15 minutes with the person. or

b. Been tested for COVID-19 and are waiting to receive test results?

v. In the past 14 days, has a public health or medical professional told you to self-monitor, self-isolate, or self-quarantine because of concerns about COVID-19 infection?

g. Mayor Pro-Tem Signe Lindell, City Manager Jarel LaPan Hill, and Finance Director Mary McCoy are my substitute signatories for emergency obligation of funds during the pendency of the declared emergency;

h. The City Clerk shall accept electronic signatures, including scanned copies of hard-copy signature, on legal documents, including but not limited to contracts, property documents, ordinances, resolutions, etc., and shall attest to electronic signatures of the Mayor and City Manager or their designees, if submitted by the signatory through the signatory's email;

i. Until the New Mexico Supreme Court lifts its injunction and the federal government lifts its moratorium, and to allow time for tenants to apply for and obtain relief funds, landlords are prohibited from taking action towards evicting residential tenants who are unable to pay rent due to COVID-19. In addition, landlords are prohibited from evicting commercial tenants who are unable to pay rent on time because, due to the public health emergency, they have been prohibited from opening to the public. This order does not seek to change the obligation of a tenant to pay rent and strongly encourages tenants to seek relief funds and discussions of payment plans between landlords and tenants;

j. The moratorium on water shut-offs will continue in order to allow customers the opportunity to seek a payment plan and/or relief funds, and to allow the Utilities Department to facilitate customers' access to relief funds, while charges will continue to accrue and be owed;

k. Unless a healthcare provider instructs otherwise,

> i. persons in Santa Fe must wear a facial covering as required by federal and state, laws, rules, and regulations and as provided in this Order for City facilities and City employees and agents; and
>
> ii. local businesses and employers may require facial coverings for clients, employees, and customers.

l. Businesses and non-profits shall comply with the State-issued CSPs to the extent applicable, which are accessible online: https://cv.nmhealth.org/covid-safe-practices/; and

m. Employers shall not retaliate against employees for seeking to comply with CSPs, advocating that their place of business follow CSPs, or reporting non-

compliance with CSPs.

II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following actions and/or precautions:

a. Obtain full vaccination against the COVID-19 virus. Available locations are posted on https://cvvaccine.nmhealth.org;
b. Wear a facial covering in close-contact situations with unvaccinated persons and persons whose vaccination status is unknown;
c. Seek relief funds for overdue rent and utilities payments. Available sources include the following:
    i. For rent and/or mortgage assistance, from the following sources:
        1. For renters, the Emergency Rental Assistance Program: https://www.renthelpnm.org/ ; and
        2. For homeowners, the State of New Mexico Mortgage Finance Authority: https://portal.neighborlysoftware.com/NEWMEXICOHOMEOWNERASSISTANCEFUND/Participant, 505-308-4206, 866-488-0498, or housingassistance@housingnm.org
    ii. For assistance with utilities payments, the following organizations have resources: Rent Help NM (linked above with rental assistance sources), Adelante Santa Fe Public Schools, Connect, St. Bede's Episcopal Church, St. Vincent de Paul, The Cathedral Basilica of St. Francis of Assisi, Help New Mexico, San Isidro Catholic Church, Life Link, Our Lady of Guadalupe Church, Income Support Division, Salvation Army, Communities in Schools New Mexico, and Westminster Presbyterian Church;
d. If utilities payments are overdue to the City, set up a payment plan by calling Utility Billing's main number 505-955-4333 and selecting option "2";
e. Avoid contact with people who are sick;
f. If you are unvaccinated,
    i. practice "social distancing", by maintain six (6) feet between yourself and others;

ii. Avoid handshaking; and
iii. Avoid all non-essential travel, including plane trips and cruise ships.

g. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;
h. If soap and water are not available, use a hand sanitizer that contains at least sixty percent (60%) alcohol;
i. To the extent possible, avoid touching high-touch surfaces in public places, such as elevator buttons, door handles, and handrails;
j. Use a tissue or your sleeve to cover your hand or finger if you must touch something;
k. Avoid touching your face, nose, and eyes; and
l. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example, tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones, and other electronic devices).

III. I also encourage the following:

a. To the greatest extent possible, all residents should practice safe and hygienic conduct as the City begins to re-open, as described in Section II of this Order, above;
b. Landlords should work with their tenants to obtain the maximum relief funds available for past-due rental payments;
c. Utilities should work with their customers to obtain the maximum relief funds available for past-due utilities bills;
d. Event planners should seek testing and vaccinations for performers, vendors, and other traveling participants to the greatest extent possible, preferably vaccination before arrival and testing for unvaccinated participants;
e. Local businesses should offer paid sick leave whenever feasible;
f. Local businesses should limit non-essential travel for work;
g. Local businesses should continue to allow employees to work from home where feasible;
h. Local businesses should, to the extent feasible, respond to requests from the City to contribute to and participate in such activities and efforts as may assist in responding to the current COVID-19 health crisis;

i. Residents should, to the extent feasible without compromising other advisories, patronize and shop at local businesses, merchants, and vendors;
j. Residents should sign up for "Alert Santa Fe" at https://www.santafenm.gov/alertsantafe;
k. Residents should register for the COVID-19 vaccine at https://cvvaccine.nmhealth.org and update their profile regularly;
l. Residents and visitors who have symptoms or are unvaccinated and know they have been exposed to someone with COVID-19 should obtain COVID-19 testing, either in person at one of the many local testing sites, searchable on the NMDOH website (https://cvprovider.nmhealth.org/directory.html) or at home, using a self-administered saliva test, available at https://learn.vaulthealth.com/nm/; and
m. Residents should call 1-855-NMCRISIS (1-855-662-7474) if they or someone they know is having a behavioral health (substance use disorder or mental health) crisis and need assistance.

IV. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and order the City Manager to disseminate the contents hereof to the public by appropriate news media and any other means at her disposal.

V. Term.

This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Santa Fe, New Mexico.

DONE at Santa Fe, New Mexico this 12 **day of** July**, 2021 at the hour of** 3 **o'clock** P **.M. (MDT).**

ALAN M. WEBBER, MAYOR
City of Santa Fe, New Mexico

ATTEST:

Kristine Mihelcic
Kristine Mihelcic (Jul 12, 2021 15:43 MDT)

KRISTINE MIHELCIC, CITY CLERK

(S E A L)

11. DISCUSSION/ACTION ITEMS

c. CONSIDERATION OF RESOLUTION NO. 2021-__. (Mayor Webber)

A Resolution Extending the State of Emergency as Proclaimed by the Mayor on July 12, 2021, by Twenty-Six (26) Days, Expring at Noon on August 9, 2021, Pursuant to Section 20-1.3 SFCC 1987. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov, 955-6512)

Committee Review:

Governing Body: 07/14/21

Name: Stefanie Beninato

Comment - 07/13/2021 05:33 PM: (No Vote)

I am against extending emergency powers. I understand council is looking at opening up city facilities so no reservations or mask will be required at rec facilities or maybe all facilities. I am hoping that you will require recreation users and anyone entering city hall to prove they are fully vaccinated before they can use the rec or other facilities without masks. It will help keeping staff and users safe from those who chose not to be vaccinated

City of Santa Fe New Mexico
Memorandum

Date: July 1, 2021

To: Finance Committee, Public Works Committee, and Governing Body

Via: Alexis Lotero, Acting Finance Director AL

From: Bradley Fluetsch, CFA, Planning and Investment Officer BF

RE: $14,745,000 CITY OF SANTA FE, NEW MEXICO
Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021

EXECUTIVE SUMMARY:

The proposed Bill refunds two of the City's outstanding bonds, a Senior Lien GRT Bond and a Subordinate Lien GRT bond into a single Subordinate Lien GRT Revenue Bond at much lower interest rates, saving the City an estimated $1.35 million in interest expense over the next five years.

BACKGROUND:

Municipal bonds typically have a call option allowing a municipal government to refund bonds if it is advantageous to the entity. The 2010B and the 2012A became eligible for the City to refund in the past year. According to the City's Debt Policy, Section IX. C the City may issue current refunding bonds when advantageous, legally permissible and prudent and when net present value of savings equal three percent. According to the City's Municipal Advisor, the estimated savings is $1,347,067 or a net present value of savings of $1,014,398, easily exceeding the three percent policy requirement.

ACTION REQUESTED:

Staff request that the committees and Governing Body approve the bill authorizing the issuance of the 2021 Subordinate Lien Gross Receipts Tax Refunding Revenue Bond in the amount of $14,745,000 subject to market conditions, which may alter the amount of the issuance or actual savings.

ATTACHMENTS:

Bill
Fiscal Impact Report
Financing Schedule
Preliminary Official Statement
Savings Estimate

AN ABSTRACT OF PROCEEDINGS

STATE OF NEW MEXICO)

COUNTY OF SANTA FE) ss.

CITY OF SANTA FE)

The Governing Body (the "Governing Body") of the City of Santa Fe (the "City") in the County of Santa Fe, State of New Mexico, met in regular session in full conformity with law and ordinances and rules of the City, at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico, being the regular meeting place of the Governing Body, at the hour of 5:00 p.m., on Wednesday, the ___ day of _____, 2021.

Upon roll call the following were found to be present, constituting a quorum of the Governing Body:

PRESENT: Mayor: _____

Councilor: _____

Councilor: _____

Councilor: _____

Councilor: _____

Councilor: _____

Councilor: _____

Councilor: _____

Councilor: _____

ABSENT:

_____

Thereupon the following proceedings, among others, were had and taken:

PUBLIC HEARINGS

***

CONSIDERATION OF BILL NO. 2021-___

ADOPTION OF ORDINANCE NO. 2021-____

Issuance of Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021.

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2021-__

INTRODUCED BY:

Mayor Alan Webber

AN ORDINANCE

AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO SUBORDINATE LIEN GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2021 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $14,745,000 FOR THE PURPOSE OF (1) REFUNDING, DISCHARGING AND PAYING THE CITY OF SANTA FE, NEW MEXICO SUBORDINATE LIEN GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2010B AND MATURING ON AND AFTER JUNE 1, 2022; (2) REFUNDING, DISCHARGING AND PAYING THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2012A AND MATURING ON AND AFTER JUNE 1, 2022; AND (3) PAYING COSTS OF ISSUANCE OF THE SERIES 2021 BONDS; CALLING FOR THE REDEMPTION OF THE OUTSTANDING SERIES 2010B BONDS AND SERIES 2012A BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; APPROVING THE SELECTION OF AN UNDERWRITER AND FORMS OF A PRELIMINARY OFFICIAL STATEMENT AND A

underscored material = new [~~bracketed material~~] = delete

PAYING AGENT REGISTAR AND DEPOSITARY AGENT AGREEMENT; DELEGATING AUTHORITY TO THE MAYOR OR, IN THE MAYOR'S ABSENCE, THE CITY MANAGER OR FINANCE DIRECTOR, TO APPROVE THE FINAL PRINCIPAL AMOUNT, INTEREST RATES AND OTHER DETAILS OF THE BONDS WITHIN THE PARAMETERS SET FORTH IN THIS AUTHORIZING ORDINANCE, AND TO EXECUTE AND DELIVER A BOND PURCHASE AGREEMENT FOR THE SALE OF THE BONDS TO THE UNDERWRITER; PROVIDING FOR THE COLLECTION OF CERTAIN GROSS RECEIPTS TAX REVENUES; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND RELATED MATTERS.

Capitalized terms used in the following preambles have the same meaning as set forth in Section 1 of this Ordinance unless the context requires otherwise.

WHEREAS, the City of Santa Fe, New Mexico (the "City") is a legally created, established, organized and existing incorporated charter municipality with home-rule powers under the constitution and laws of the State of New Mexico; and

WHEREAS, pursuant to Section 7-1-6.4 NMSA 1978 the City receives monthly State-Shared Gross Receipts Tax Revenues from the New Mexico Department of Taxation and Revenue equal to one and two hundred and twenty-five thousandths percent (1.225%) of the gross receipts of persons engaging in business within the City, as determined and adjusted under the Gross Receipts and Compensating Tax Act, Chapter 7, Article 9 NMSA 1978; and

WHEREAS, pursuant to the Municipal Local Option Gross Receipts Taxes Act, Sections 7-19D-1 through 7-19D-18, NMSA 1978, and the One-Half Percent Municipal Gross Receipts Tax

Ordinance, the City has imposed a municipal gross receipts tax on persons engaging in business in the City in the amount of one-half of one percent (0.50%) and receives monthly One-Half Percent Municipal Gross Receipts Tax Revenues from the New Mexico Department of Taxation and Revenue, as determined and adjusted under the Municipal Local Option Gross Receipts Taxes Act. The One-Half Percent Municipal Gross Receipts Tax was imposed by City Ordinance No. 1981-45 and is dedicated for capital improvements to City facilities and street and road construction and reconstruction as authorized by the Municipal Local Option Gross Receipts Taxes Act. Other increments of Municipal Local Option Gross Receipts Tax are imposed by the City which are not pledged for payment of Parity Superior Obligations, Subordinate Lien Obligations or Super Subordinate Obligations; and

WHEREAS, pursuant to Section 7-19D-11 NMSA 1978 and City Ordinance No. 1993-21, the City has imposed an infrastructure gross receipts tax on persons engaging in business in the City and receives monthly distributions of Infrastructure Gross Receipts Tax Revenues from the New Mexico Department of Taxation and Revenue equal to 1/16th of one percent (0.0625%) of the gross receipts of persons engaging in business within the City, as determined and adjusted under the Municipal Local Option Gross Receipts Taxes Act and the Tax Administration Act. The Infrastructure Gross Receipts Tax is dedicated for purposes authorized by Section 7-19D-11 NMSA 1978; and

WHEREAS, pursuant to Section 7-19D-10 NMSA 1978, and City Ordinance No. 1993-20, the City has imposed an environmental services gross receipts tax on persons engaging in business in the City and receives monthly distributions of Environmental Services Gross Receipts Tax Revenues from the New Mexico Department of Taxation and Revenue equal to 1/16th of one percent (0.0625%) of the gross receipts of persons engaging in business within the City, as determined and adjusted under the Municipal Local Option Gross Receipts Taxes Act and the Tax Administration Act. The Environmental Services Gross Receipts Tax is dedicated for purposes

authorized by Section 7-19D-10 NMSA 1978; and

WHEREAS, the Environmental Services Gross Receipts Tax Revenues are not pledged to the repayment of the Bonds; and

WHEREAS, pursuant to Ordinance No. 2010-26, passed and adopted by the Governing Body on November 10, 2010, the City issued its "City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2010B" (herein the "Series 2010B Bonds") in an aggregate principal amount of $10,490,000, payable from and constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues, and the Infrastructure Gross Receipts Tax Revenues (of which $4,860,000 of such Series 2010B Bonds remains outstanding); and

WHEREAS, pursuant to Ordinance No. 2012-7, passed and adopted by the Governing Body on January 25, 2012, the City issued its "City of Santa Fe, New Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012A" (herein the "Series 2012A Bonds") in an aggregate principal amount of $32,725,000, payable from and constituting a first (but not an exclusive first) lien on the State-Shared Gross Receipts Tax update Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues, and the Infrastructure Gross Receipts Tax Revenues (of which $10,735,000 of such Series 2012A Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2012-6, passed and adopted by the Governing Body on January 25, 2012, the City issued its "City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater Systems Refunding Revenue Bonds, Series 2012B" (herein the "Series 2012B Bonds") in an aggregate principal amount of $14,280,000 , payable from and constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues, the Environmental Services Gross Receipts Tax Revenues, and the Infrastructure Gross Receipts Tax Revenues and a first (but not an exclusive first) lien on the Wastewater System Revenues (of which

$1,960,000 of such Series 2012B Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2013-19, passed and adopted by the Governing Body on May 8, 2013, the City issued its "City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2013B" (herein the "Series 2013B Bonds") in an aggregate principal amount of $13,780,000, payable from and constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues, and the Infrastructure Gross Receipts Tax Revenues (of which $11,245,000 of such Series 2013B Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2014-27, passed and adopted by the Governing Body on August 27, 2014, the City issued its "City of Santa Fe, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2014" (herein the "Series 2014 Bonds") in an aggregate principal amount of $15,460,000, payable from and constituting a first (but not an exclusive first) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues (of which $14,615,000 of such Series 2014 Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2016-21, passed and adopted by the Governing Body on May 25, 2016, as supplemented by Resolution No. 2016-50 passed and adopted by the Governing Body on June 23, 2016, the City issued its "City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016A" (herein the "Series 2016A Bonds) in an aggregate principal amount of $6,700,000, payable from and constituting a first (but not an exclusive first) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues (of which $2,140,000 of such Series 2016A Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2016-21, passed and adopted by the Governing Body on May 25, 2016, as supplemented by Resolution No. 2016-50 passed and adopted by the

Governing Body on June 23, 2016, the City issued its "City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016B" (herein the "Series 2016B Bonds) in an aggregate principal amount of $21,900,000, payable from and constituting a first (but not an exclusive first) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues (of which $10,225,000 of such Series 2016B Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2016-21, passed and adopted by the Governing Body on May 25, 2016, as supplemented by Resolution No. 2016-50 passed and adopted by the Governing Body on June 23, 2016, the City issued its "City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016C" (herein the "Series 2016C Bonds) in an original aggregate principal amount of $9,480,000, payable from and constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues (of which $475,000 of such Series 2016C Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2016-21, passed and adopted by the Governing Body on May 25, 2016, as supplemented by Resolution No. 2016-50 passed and adopted by the Governing Body on June 23, 2016, the City issued its "City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016D" (herein the "Series 2016D Bonds") in an original aggregate principal amount of $2,020,000, payable from and constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues (of which $1,510,000 of such Series 2016D Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2017-8, passed and adopted by the Governing

Body on April 26, 2017, the City issued its "City of Santa Fe, New Mexico Taxable Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2017" (herein the "Series 2017 Taxable Bonds") in an original aggregate principal amount of $4,530,000, payable from and constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues (of which $3,555,000 of such Series 2017 Taxable Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2017-23, passed and adopted by the Governing Body on November 8, 2017, the City issued its "City of Santa Fe, New Mexico Gasoline Tax/Subordinate Lien Gross Receipts Tax Improvement Revenue Bonds, Series 2018" (herein the "Series 2018 Gasoline Tax/Subordinate Lien GRT Bonds") in an original aggregate principal amount of $10,290,000, payable from and constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues (of which $7,745,000 of such Series 2018 Gasoline Tax/Subordinate Lien GRT Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2018-25, passed and adopted by the Governing Body on October 31, 2018, the City issued its "City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Improvement Revenue Bonds, Series 2018A in an original aggregate principal amount of $20,000,000, payable from and constituting a first (but not an exclusive first) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues (of which $18,975,000 of such Series 2018A Bonds remain outstanding); and

WHEREAS, pursuant to Ordinance No. 2019-7, passed and adopted by the by the Governing Body on May 29, 2019 the City authorized the execution and delivery of a Taxable

Refunding Loan Agreement with the New Mexico Finance Authority (the "2019 Finance Authority Refunding Loan") in an original principal amount of $23,705,000, payable from and constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues (of which $21,905,000 of such 2019 Finance Authority Loan remains outstanding); and

WHEREAS, pursuant to Ordinance No. 2019-17, passed and adopted by the by the Governing Body on August 28, 2019 the City authorized the execution and delivery of a Taxable Loan Agreement with the New Mexico Finance Authority (the "2019 Finance Authority Parking Improvements Loan") in an original principal amount of $1,575,000, payable from and constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues (of which $1,195,000 of such 2019 Finance Authority Parking Improvements Loan remains outstanding); and

WHEREAS, except for the outstanding the Series 2010B Bonds, the Series 2012A Bonds, the Series 2012B Bonds, the Series 2013A Bonds, the Series 2013B Bonds, the Series 2014 Bonds, the Series 2016A Bonds, the Series 2016B Bonds, the Series 2016C Bonds, the 2016D Bonds, the Series 2017 Taxable Bonds, the Series 2018 Gasoline Tax/Subordinate Lien GRT Bonds, the Series 2018A Bonds, the 2019 Finance Authority Refunding Loan and the 2019 Finance Authority Parking Improvements Loan, there are no obligations presently outstanding to which the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues, or the Infrastructure Gross Receipts Tax Revenues have been pledged by the City; and

WHEREAS, the Governing Body hereby determines that issuance of the "City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021" (the "Bonds"), to (1) to refund, discharge and pay the Series 2010B Bonds maturing on and after June

1, 2022, (2) to refund, discharge and pay the Series 2012A Bonds maturing on and after June 1, 2022, and (3) to pay the Costs of Issuance of the Bonds, will provide for the public health, peace and safety of the City and its citizens; and

WHEREAS, the Bonds shall be issued pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978, with a first (but not an exclusive first) lien on the Pledged Gross Receipts Tax Revenues (the Pledged Revenues"); and

WHEREAS, the Governing Body expects to offer the Bonds pursuant to the Preliminary Official Statement, in a negotiated sale as and to sell the Bonds to the Underwriter pursuant to a Bond Purchase Agreement , the forms of which Preliminary Official Statement and Bond Purchase Agreement have been presented to the Governing Body in connection with this Bond Ordinance, to be executed by the Mayor or, the absence of the Mayor, another Authorized Officer pursuant to Section 6-14-10.2 NMSA 1978, all within the parameters set forth in this Bond Ordinance; and

WHEREAS, Section 3-31-6(C) NMSA 1978, provides:

> "C. Any law which authorizes the pledge of any or all of the pledged revenues to the payment of any revenue bonds issued pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978, or which affects the pledged revenues, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any such outstanding revenue bonds, unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor;" and

WHEREAS, the Exchange Act permits a municipality, including the City, that has issued or proposes to issue bonds to enter into an agreement for an exchange of interest rates as provided therein; and

WHEREAS, in connection with the Bonds, Parity Superior Lien Gross Receipts Tax Obligations or Subordinate Lien Gross Receipts Tax Obligations which may be issued in the future

by the City, the Governing Body may determine to enter into a Qualified Exchange Agreement for all or a portion of the Bonds, Parity Superior Lien Gross Receipts Tax Obligations or Subordinate Lien Gross Receipts Tax Obligations which may provide for the payment by the City of a Variable Exchange Rate or a Fixed Exchange Rate and the payment by the Qualified Counterparty of a Fixed Exchange Rate or Variable Exchange Rate; and

WHEREAS, all required authorizations, consents or approvals of any State, governmental body, agency or authority in connection with the authorization, execution and delivery of the Bonds (i) which are required to have been obtained by the date of the adoption of the Bond Ordinance have been obtained, and (ii) which will be required to be obtained prior to any Closing Date, will have been obtained by that date.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE, NEW MEXICO:

Section 1. Definitions. The terms in this section are defined for all purposes of this Ordinance and of any ordinance amendatory hereof or supplemental hereto, or relating hereto, and of any instrument or document appertaining hereto, except where the context by clear implication herein otherwise requires, shall have the following meanings:

"Act" means the general laws of the State, including Sections 3-31-1 through 3-31-12 NMSA 1978, as amended, and enactments of the Governing Body relating to the issuance of the Bonds, including this Bond Ordinance.

"Authorized Officer" means the following officers of the City: Mayor, City Manager, City Finance Director, or other officer of the City when designated by a certificate signed by the Mayor of the City from time to time, a certified copy of which shall be delivered to the Paying Agent and the Registrar.

"Bond Counsel" means an attorney or firm of attorneys nationally recognized for expertise in the area of municipal bonds and the exemption of interest on municipal bonds from federal

income taxation.

"Bond Purchase Agreement" means the bond purchase agreement between the City and the Purchaser in connection with the negotiated sale of the Bonds, the form of which has been presented to the Governing Body in connection with this Bond Ordinance. been presented to the Governing Body in connection with this Bond Ordinance.

"Bonds," "2021 Bonds" or "Series 2021 Bonds" means the "City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021", which are authorized by this Bond Ordinance.

"Business Day" means any day other than (i) a Saturday or Sunday, (ii) any day on which the following offices are authorized or required to remain closed: offices of the City and of banks located in the cities in which the principal offices of the Paying Agent and Registrar are located or (iii) a day on which the New York Stock Exchange is closed.

"City," "Municipal," or "Municipality" means the municipal corporation and body corporate and politic known as the City of Santa Fe, Santa Fe County, New Mexico.

"Continuing Disclosure Undertaking" means the continuing disclosure undertaking with respect to the Bonds to be executed on the date of issuance and delivery of the Bonds to the Purchaser, the form of which in included in the Preliminary Official Statement approved pursuant to this Bond Ordinance.

"Costs of Issuance" means all costs relating to issuance of the Bonds, including, without limitation, costs of advertising and publication, costs of preparing the Bonds, fees and expenses of the financial advisor, bond counsel, the Paying Agent, the Registrar, the rating fees and other reasonable and necessary fees and costs, including applicable gross receipts taxes, related to the issuance of the Bonds.

"Credit Facility" means a letter of credit, standby bond purchase agreement, line of credit, bond insurance policy or reserve account insurance policy, guaranty or similar agreement provided

by a bank, insurer or other provider of a Credit Facility rated, at the time the Credit Facility is provided, "A" or better by Fitch and S&P (if such rating agencies are then rating the Bonds), including any substitute therefor, to provide support to pay the purchase price of, or the payment of the principal of and interest on, Obligations.

"Cross-over Refunding Bonds" means bonds or obligations issued for the purpose of refunding Obligations if the proceeds thereof are irrevocably deposited in escrow to secure repayment on an applicable redemption date or maturity date of the principal of and redemption premium on the related Obligations being refunded and the earnings on such escrow are required to be used to pay interest on the Cross-over Refunding Bonds.

"Debt Service Requirements" for any period means the sum of: (i) the amount required to pay the interest, or to make reimbursements for payments of interest, becoming due on the applicable Obligations during such period; plus (ii) the amount required to pay the principal or accreted value, or to make reimbursements for the payment of principal or accreted value, becoming due on the applicable Obligations during that period, whether at maturity, an accretion term date or upon mandatory sinking fund redemption dates, plus (iii) any net periodic payments on a notional amount required to be made by the City pursuant to a Qualified Exchange Agreement minus (iv) any net periodic payments on a notional amount to be received by the City pursuant to a Qualified Exchange Agreement.

(a) No payments required on the applicable Obligations shall be included in any computation of Debt Service Requirements for any computation period prior to the maturity or otherwise certain due dates thereof which may occur because of the exercise of an option by the City, or which may otherwise become due by reason of any other circumstance or contingency, including acceleration, which constitute other than regularly scheduled payments of principal, accreted value, interest or other regularly scheduled payments on the applicable Obligations.

(b) Debt Service Requirements required to be made pursuant to a Qualified

Exchange Agreement shall be based upon the actual amount required to be paid by the City, if any, to the Qualified Counterparty. In determining that amount, any payments required to be made by either party to the Qualified Exchange Agreement at a Variable Exchange Rate shall be computed, in determining the obligation of the City under the Qualified Exchange Agreement, using the procedures set forth in the applicable sections of this Ordinance.

(c) The computation of interest for the purposes of this definition shall be made without considering the interest rate payable pursuant to a Credit Facility, unless, at the time of computation of Debt Service Requirements, payments on Obligations are owed to, or Obligations are owned or held by, the provider of a Credit Facility pursuant to the provisions of that Credit Facility.

(d) The accreted value of capital appreciation bonds shall be included in the calculation of interest and principal only for the applicable year during which the accreted value becomes payable.

(e) In any computation of Debt Service Requirements relating to the issuance of additional Parity Obligations:

(1) There shall be deducted from that computation (i) amounts on deposit in an escrow account related to an issue of Cross-over Refunding Bonds and (ii) proceeds of a series of Obligations deposited to the credit of an account for the payment of capitalized interest on Obligations included as part of the computation during the applicable period.

(2) There may be made the adjustment to the Debt Service Requirements applicable to Bond Anticipation Notes described in Paragraph E of Sections 21 and 23 of this Ordinance.

(f) Except as provided in Paragraph F of Section 21, the purchase or tender price of Put Obligations resulting from the optional or mandatory tender or presentment for purchase of those Put Obligations shall not be included in any computation of Debt Service

Requirements.

"Depository" means The Depository Trust Company, New York, New York, or such other securities depository as may be designated by an officer of the City.

"Environmental Services Gross Receipts Tax" means the environmental services gross receipts tax imposed pursuant to Section 7-19D-10 NMSA 1978 by the Environmental Services Gross Receipts Tax Ordinance on persons engaging in business in the City in the amount of 1/16th of one percent (0.0625%) of the gross receipts of such persons.

"Environmental Services Gross Receipts Tax Ordinance" means City Ordinance No. 1993-20 imposing the Environmental Services Gross Receipts Tax, as amended.

"Environmental Services Gross Receipts Tax Revenue Fund" means the "City of Santa Fe, New Mexico Environmental Services Gross Receipts Tax Revenue Fund," maintained by the City and continued in Section 17 of this Ordinance, into which the City shall deposit the Environmental Services Gross Receipts Tax Revenues.

"Environmental Services Gross Receipts Tax Revenues" means the environmental services gross receipts tax revenues received by the City pursuant to Section 7-19D-10 NMSA 1978 and the Environmental Services Gross Receipt Tax Ordinance.

"Exchange Act" means Section 6-18-8.1 NMSA 1978, as amended and supplemented.

"Exchange Termination Payment" means the net amount payable pursuant to a Qualified Exchange Agreement by the City or a Qualified Counterparty to compensate the other party for any losses and costs that such other party may incur as a result of the early termination of the obligations, in whole or in part, of the parties under such Qualified Exchange Agreement.

"Federal Securities" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Fiscal Year" for the purposes of this Ordinance means the twelve months commencing on the first day of July of any calendar year and ending on the last day of June of the next calendar

year; but it may mean any other 12-month period which the City hereafter may establish.

"Fitch" means Fitch Ratings Group, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

"Fixed Exchange Rate" means a fixed rate of interest payable by the City or a Qualified Counterparty pursuant to a Qualified Exchange Agreement.

"Governing Body" means the members of the governing body designated as councilors who, together with the mayor, are the governing body of the City.

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America or certificates or receipts established by the United States Government or its agencies or instrumentalities representing direct ownership of future interests or principal payments on direct obligations of, or obligations fully guaranteed by, the United States of America or any of its agencies or instrumentalities the obligations of which are backed by the full faith and credit of the United States.

"Historic Test Period" means any twelve consecutive calendar months designated by an Authorized Officer from time to time out of the eighteen-calendar months next preceding the date of adoption of the City ordinance authorizing the issuance of additional Obligations without regard to any resolution or ordinance supplementing or amending the authorizing ordinance.

"Independent Accountant" means (A) an accountant employed by the State of New Mexico and under supervision of the State Auditor of the State of New Mexico, or (B) any registered or certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State of New Mexico, appointed and paid by the City, who (1) is, in fact, independent and not under the domination of the City, (2) does not have any substantial interest, direct or indirect, with the City, and (3) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or similar audits of the books or records

of the City.

"Infrastructure Gross Receipts Tax" means the infrastructure gross receipts tax imposed pursuant to Section 7-19D-11 NMSA 1978 by the Infrastructure Gross Receipts Tax Ordinance on persons engaged in business in the City in an amount of 1/16th of one percent (0.0625%) of the gross receipts of such persons.

"Infrastructure Gross Receipts Tax Ordinance" means City Ordinance No. 1993-21 imposing the Infrastructure Gross Receipts Tax, as amended.

"Infrastructure Gross Receipts Tax Revenue Fund" means the "City of Santa Fe Infrastructure Gross Receipts Tax Revenue Fund" maintained by the City and continued in Section 17 of this Ordinance, into which the City shall deposit the Infrastructure Gross Receipts Tax Revenues.

"Infrastructure Gross Receipts Tax Revenues" means the infrastructure gross receipts tax revenues received by the City pursuant to Section 7-19D-11 NMSA 1978 and the Infrastructure Gross Receipts Tax Ordinance.

"Insured Bank" means any federally or state-chartered savings and loan association or federally or state-chartered commercial bank, the deposits of which are insured by the Federal Deposit Insurance Corporation and which has, or is the lead bank of a parent holding company which has (i) unsecured, uninsured and unguaranteed obligations which are rated AA or better by Fitch and S&P or (ii) combined capital, surplus and undivided profits of not less than $10,000,000.

"Moody's" means Moody's Investors Service, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

"Obligations" means bonds, notes or any other instrument which evidences a borrowing or other obligation of the City, including Qualified Exchange Agreements, secured by Pledged Gross Receipts Tax Revenues, issued or incurred for any purpose permitted by the Act or the Exchange

Act, as amended from time to time.

"One-Half Percent Municipal Gross Receipts Tax Ordinance" means City of Santa Fe Ordinance No. 1981-45 imposing a one-half of one percent municipal gross receipts tax.

"One-Half Percent Municipal Gross Receipts Tax Revenue Fund" means the "City of Santa Fe, New Mexico One-Half Percent Municipal Gross Receipts Tax Revenue Fund" maintained by the City and continued in Section 17 of this Ordinance, into which the City shall deposit the One-Half Percent Municipal Gross Receipts Tax Revenues.

"One-Half Percent Municipal Gross Receipts Tax Revenues" means those revenues received by the City pursuant to the Municipal Local Option Gross Receipts Taxes Act, Sections 7-19D-1 through 7-19D-12 NMSA 1978, and the One-Half Percent Municipal Gross Receipts Tax Ordinance.

"Ordinance" means this City Ordinance as amended or supplemented from time to time.

"Parity Subordinate Lien Gross Receipts Tax Obligations" or "Parity Subordinate Obligations" means the Bonds, the Series 2012B Bonds, the Series 2013B Bonds, the Series 2016C Bonds, and the Series 2016D Bonds, the Series 2017 Taxable Bonds, The Series 2018 Gasoline Tax/Subordinate Lien GRT Bonds, the 2019 Finance Authority Refunding Loan, the 2019 Finance Authority Parking Improvements Loan, any scheduled periodic payments (but not Exchange Termination Payments) required to be made by the City pursuant to a Qualified Exchange Agreement, and any other Obligations hereafter issued or incurred payable from the Pledged Gross Receipts Tax Revenues and issued with a lien on the Pledged Gross Receipts Tax Revenues on parity with the lien thereon of the Bonds.

"Paying Agent" means BOKF, NA, as agent for the City for the payment of the Bonds, the interest thereon, and any successor.

"Permitted Investments" means any of the following which at the time of such investment are legal investments for the City pursuant to adopted City investment policies and the laws of the

State:

(a) Government Obligations;

(b) Obligations of, or obligations guaranteed as to principal and interest by any agency or instrumentality of the United States which are backed by the full faith and credit of the United States, including, but not limited to: General Services Administration--participation certificates; Government National Mortgage Association (GNMA)--GNMA guaranteed mortgage-backed securities and GNMA guaranteed participation certificates; U.S. Department of Housing & Urban Development--local authority bonds; and U.S. Export-Import Bank--all fully guaranteed obligations;

(c) Obligations of the following government-sponsored agencies: Federal Home Loan Mortgage Corporation--participation certificates and senior debt obligations; Farm Credit System--consolidated system-wide bonds and notes; Federal Home Loan Banks--consolidated debt obligations; Federal National Mortgage Association--senior debt obligations and mortgage-backed securities (excluding stripped mortgage securities which are valued greater than par on the portion of unpaid principal); Student Loan Marketing Association--senior debt obligations (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date) and letter of credit backed issues; Financing Corporation--debt obligations; and Resolution Funding Corporation--debt obligations;

(d) Bank time deposits evidenced by certificates of deposit and bankers acceptances issued by an Insured Bank, provided that such time deposits and bankers' acceptances (1) do not exceed at any one time in the aggregate five percent (5%) of the combined total of the capital, surplus and undivided profits of such Insured Bank, or (2) are secured by obligations described in paragraphs (a), (b), (c) and (h) of this definition which obligations at all times have a market value (exclusive of accrued interest) at least equal to 102% of such time deposits so secured;

(e) Obligations, other than specified private activity bonds (as defined in

Section 57(a)(5)(C) of the Internal Revenue Code, as amended (the "Tax Code")), the interest on which is excluded from gross income of the recipient for federal income tax purposes and any other instrument which does not constitute "investment property" under Section 148 of the Tax Code (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date), as amended from time to time, which is rated in the highest major Rating Category by S&P and Fitch (if such rating agency is then rating the Bonds);

(f) Money market instruments and other securities of commercial banks, broker-dealers or recognized financial institutions, which securities or instruments are rated in the highest Rating Category by S&P and Fitch, (if such rating agency is then rating the Bonds), or which securities are guaranteed by a person or entity whose long-term debt obligations are rated in the highest Rating Category by S&P and Fitch (if such rating agency is then rating the Bonds) including, without limitation, securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the provisions or 15 U.S.C. Sections 80(a)-1 et. seq., which invest only in, or whose securities are secured only by, obligations of the type set forth in paragraphs (a), (b), (c) and (h) of this definition;

(g) Stripped Securities: (1) U.S. Treasury STRIPS and (2) REFCORP STRIPS (stripped by Federal Reserve Bank of New York);

(h) Repurchase agreements involving the purchase and sale of, and guaranteed investment contracts, the par value of which is collateralized by a perfected first pledge of, or security interest in, or the payments of which are unconditionally guaranteed by, securities described in parts (a), (b), (c) and (h) of this definition, which collateral is held by the City, or for the benefit of the City, by a party other than the provider of the guaranteed investment contract or repurchase agreement, with a collateralized value of at least 102% of the par value of such repurchase agreement or guaranteed investment contract or 102% of the market value thereof, valued at intervals of no less than monthly and which collateral is not subject to any other pledge

or security interest; and

(i) Such other investments as are now or may be hereafter authorized as legal investments for the City by the legislature of the State under Section 6-10-10 NMSA 1978, or a similar statutory provision applicable to the City, provided that such investment is rated, at the time of purchase, "A" or better by Fitch and "A" or better by S&P (if such rating agency is then rating the Bonds).

"Pledged Gross Receipts Tax Revenues" means, collectively, (1) the State-Shared Gross Receipts Tax Revenues; (2) the One-Half Percent Municipal Gross Receipts Tax Revenues; (3) the Infrastructure Gross Receipts Tax Revenues; (4) the portion of the gross receipts tax distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues, and Infrastructure Gross Receipts Tax Revenues that would have been remitted to the City but for the deductions provided by Section 7-9-92 and 7-9-93 NMSA 1978 and any similar distributions made to the City in lieu of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues and Infrastructure Gross Receipts Tax Revenues pursuant to law; and (5) any other gross receipts tax revenues received by the City, whether from distribution by the State or pursuant to gross receipts taxes imposed by the City, and hereafter (i.e. after the adoption of this Ordinance) pledged to the payment of the Bonds by affirmative act of the Governing Body.

"Pledged Revenues" means the Pledged Gross Receipts Tax Revenues.

"Preliminary Official Statement" and "Official Statement" means the disclosure documents utilized by the Purchaser in connection with the offer and sale of the Bonds to investors.

"Pricing Certificate" means the certificate setting forth the maturity dates, principal amounts, prices, redemption features and other final terms of the Bonds.

"Purchaser" means the Underwriter.

"Put Obligations" means any Obligations which have put or similar features requiring the

City to purchase such Obligations upon notice from the owners thereof.

"Qualified Counterparty" means, with respect to a Qualified Exchange Agreement, any party whose senior long term debt obligations, or whose obligations under a Qualified Exchange Agreement are guaranteed by a party whose senior long term debt obligations, are rated (at the time of execution of the Qualified Exchange Agreement) in one of the top two Rating Categories by Fitch and S&P.

"Qualified Exchange Agreement" means any financial arrangement between the City and a Qualified Counterparty which satisfies the requirements of the Exchange Act at the time the agreement is entered into.

"Rating Category" means a generic securities rating category, without regard, in the case of a long-term rating category, to any refinement or gradation of such long-term rating category by a numerical modifier or otherwise.

"Refunded Bonds" means the Refunded Series 2010B Bonds and the Refunded Series 2012A Bonds.

"Refunded Series 2010B Bonds" means the Series 2010B Bonds maturing on and after June 1, 2022.

"Refunded Series 2012A Bonds" means the Series 2010A Bonds maturing on and after June 1, 2022.

"Refunding Account" means the "City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021, Refunding Project Account" established in Section 17 hereof and to be maintained by the City.

"Refunding Project" means (1) refunding, discharging and paying the Refunded Series 2010B Bonds, including interest accrued to the date on which the Refunded Series 2010B Bonds are refunded, (2) refunding, discharging and paying the Refunded Series 2012A Bonds, including interest accrued to the date on which the Refunded Series 2012A Bonds are refunded, and (3)

paying the Costs of Issuance allocable to the Refunding Project.

"Registrar" means BOKF, N.A., as registrar and transfer agent for the Bonds, and any successor.

"Regular Record Date" means the 15th day of the calendar month (whether or not a business day) preceding each regularly scheduled interest payment date on the Bonds.

"Related Documents" means the Bond Purchase Agreement, the Pricing Certificate, the Continuing Disclosure Undertaking, the Preliminary Official Statement, the Official Statement, and any other document or agreement containing an obligation of the City as may be required in connection with the issuance of the Bonds.

"S&P" means S&P Global, its successors and their assigns, and, if such entity is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

"Sale Price" means the amount paid by the Purchaser for its purchase of the Bonds, set forth in the Pricing Certificate and the Bond Purchase Agreement.

"Series 2021 Bond Fund" means the "City of Santa Fe Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021, Bond Fund," established in Section 17 of this Ordinance.

"Series Date" means the date of issuance and delivery of the Bonds to the Purchaser.

"Special Record Date" means a special date fixed to determine the names and addresses of registered owners of the Bonds for purposes of paying interest on a special interest payment date for the payment of defaulted interest thereon, all as further provided in Section 5B hereof.

"State-Shared Gross Receipts Tax Revenues" means the revenues distributed to the City monthly by the New Mexico Department of Taxation and Revenue pursuant to Sections 7-1-6 and 7-1-6.4 NMSA 1978, at the rate authorized (currently 1.225% of the gross receipts of persons doing business within the City) from the proceeds of a state-wide gross receipts tax imposed pursuant to

Chapter 7, Article 9, NMSA 1978.

"State-Shared Gross Receipts Tax Revenue Fund" means the "City of Santa Fe, New Mexico State-Shared Gross Receipts Tax Revenue Fund" maintained by the City and continued in Section 17 of this Ordinance, into which the City shall deposit the State-Shared Gross Receipts Tax Revenues.

"Superior Lien Gross Receipts Tax Obligations", "Superior Tax Obligations" or "Superior Obligations" means the Series 2013A Bonds, the Series 2014 Bonds, the Series 2016A Bonds, and the Series 2016B Bonds, the Series 2018A Bonds and any other Obligations hereafter issued or incurred payable from the Pledged Gross Receipts Tax Revenues and issued with a lien on the Pledged Gross Receipts Tax Revenues superior to the lien thereon of the Bonds.

"Underwriter" means _____, as senior manager, and _____, as co-manager, the original purchasers of the Bonds, and their successors and assigns.

"Variable Exchange Rate" means a Variable Interest Rate payable by the City or a Qualified Counterparty pursuant to a Qualified Exchange Agreement.

"Variable Interest Rate" means an interest rate which varies or fluctuates from time to time.

Any provision of this Ordinance regarding a Qualified Counterparty shall be deemed to be of no effect if no Qualified Exchange Agreement is in effect or if a Qualified Counterparty is in default in its obligations under a Qualified Exchange Agreement and no amount is due and owing under a Qualified Exchange Agreement.

Section 2. Ratification. All action heretofore taken (not inconsistent with the express provisions of this Ordinance) by the Governing Body and officers of the City directed toward the Refunding Project, and toward the authorization, sale and issuance of the Bonds to the Purchaser herein authorized, including, without limitation, the publication of a notice of public meeting and intent to adopt this Ordinance authorizing issuance of the Bonds in an aggregate

principal amount not to exceed $14,745,000 (exclusive of premium which may be paid in connection with the original issuance of the Bonds) be, and the same hereby is ratified, approved and confirmed, notwithstanding any inconsistent prior action.

Section 3. Authorization of the Refunding Project; Call for Redemption of Series 2010B and 2012A Bonds.

A. The Refunding Project are hereby authorized at a total cost not to exceed the proceeds of the Bonds, excluding any such cost defrayed or to be defrayed by any source other than proceeds of the Bonds and the necessity thereof is hereby so declared. The Refunding Project will reduce interest costs and effect other economies, and is necessary and in the best interest of the City and its residents.

B. The City has elected and does hereby declare its intent to exercise on the behalf and in the name of the City its option to redeem the Refunded Bonds at a redemption price equal to 100% of the principal amount of the Refunded Bonds to be redeemed, plus accrued interest to the redemption date.

The City is hereby obligated so to exercise such option, which option shall be deemed to have been exercised upon adoption of this Bond Ordinance and delivery of the Bonds. Forthwith upon delivery of the Bonds, a notice of prior redemption of the Refunded Bonds shall be mailed or delivered to the registered owners of the Refunded Bonds by BOKF, NA, as paying agent and registrar for the Refunded Bonds.

Section 4. Authorization of Bonds; Sale to Underwriter pursuant to Bond Purchase Agreement.

A. For the purpose of protecting the public health, conserving the property and advancing the general welfare of the citizens of the City, and for the purpose of defraying the cost of the Refunding Project, it is hereby declared that the interest and necessity of the City and the inhabitants of the City require the issuance by the City of its

fully registered (i.e., registered as to payment of both principal and interest) revenue bonds without coupons to be designated "City of Santa Fe Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021," in an aggregate principal amount not to exceed Fourteen Million Seven Hundred Forty-Five Thousand Dollars ($14,745,000), exclusive of premium which may be paid in connection with the original purchase of the Bonds. The Bonds shall be payable and collectible, both as to principal and interest, solely from the Pledged Revenues. The Bonds shall be sold pursuant to a negotiated sale to the Underwriter, the selection of which is hereby approved, at a sale price and upon the terms set forth in the Pricing Certificate and the Bond Purchase Agreement, and shall be within the parameters set forth below:

(1) The Bonds shall be issued for the Refunding Project.

(2) The maximum par amount of the Bonds shall not be more than $14,745,000 (excluding any premium paid in connection with the original purchase of the Bonds).

(3) The final maturity of the Bonds shall be no later than June 1, 2041.

(4) The maximum interest rate on the Bonds shall be no greater than 12% per annum.

(5) The Bond shall be payable solely from the Pledged Revenues.

(6) The Bonds shall be sold to the Underwriter pursuant to a negotiated sale, the final terms of which shall be within the parameters established in this Section, and shall be as set forth in the Pricing Certificate and the Bond Purchase Agreement.

(7) The maximum sale price of the Bonds shall be not more than $14,745,000, exclusive of premium payable in connection with the issuance of the Bonds.

(8) The Purchasers' discount shall not exceed 1% of the aggregate principal amount of the Bonds.

(9) The Bonds shall be in substantially the form set forth in this Ordinance.

(10) The City hereby appoints BOKF, NA as the paying agent and registrar for the Bonds.

B. The Mayor or, in the Mayor's absence, the City Manager or City Finance Director, is hereby authorized pursuant to this Ordinance to approve the final terms of the Bonds as permitted by Section 6-14-10.2 NMSA 1978, and to execute and deliver the Bond Purchase Agreement and Pricing Certificate.

Section 5. Bond Details.

A. Basic Details. The Bonds shall be dated the date of their issuance and delivery to the Purchaser (herein "Series Date"), and are issuable in the denomination of $5,000 each or any integral multiple thereof (provided that no Bond may be in a denomination which exceeds the principal coming due on any maturity date and no individual Bond will be issued for more than one maturity). The Bonds shall be numbered consecutively from 1 upwards.

The Bonds shall bear interest from the Series Date, payable semi-annually on June 1 and December 1 each year, commencing on June 1, 2022 or such other date as permitted by law and determined in the Bond Purchase Agreement executed and delivered as provided in Section 4B hereof, until their respective maturities and shall bear the rates of interest and shall mature on June 1 in each of the designated amounts and years as set forth in the Bond Purchase Agreement and Pricing Certificate.

B. Payment-Regular Record Date. The principal of any Bond shall be payable to the registered owner thereof as shown on the registration books kept by the Registrar which is hereby appointed as registrar (and transfer agent) for the Bonds, upon maturity or prior redemption thereof and upon presentation and surrender at the Paying Agent which also is hereby appointed as the paying agent for the Bonds. If any Bond shall not be paid upon such presentation and surrender at or after maturity or on a designated prior redemption date on which the City may have exercised

its right to redeem any Bond prior to its stated maturity pursuant to Section 6 of this Ordinance, it shall continue to draw interest at the rate borne by the Bond until the principal thereof is paid in full. Payment of interest on any Bond shall be made to the registered owner of the Bond as of the Regular Record Date by check or draft mailed by the Paying Agent, on or before each interest payment date (or, if such interest payment date is not a Business Day, on or before the next succeeding Business Day), to the registered owner thereof on the Regular Record Date at his address as it last appears on the registration books kept by the Registrar on the Regular Record Date (or by such other arrangements as may be mutually agreed to by the Paying Agent and any registered owner on such Regular Record Date). All such payments shall be made in lawful money of the United States of America. The person in whose name any Bond is registered at the close of business on any Regular Record Date with respect to any interest payment date shall be entitled to receive the interest payable thereon on such interest payment date notwithstanding any transfer or exchange thereof subsequent to such Regular Record Date and prior to such interest payment date; but any such interest not so timely paid or duly provided for shall cease to be payable as provided above and shall be payable to the person in whose name any Bond is registered at the close of business on a Special Record Date fixed by the Registrar for the payment of any such defaulted interest. Such Special Record Date shall be fixed by the Registrar whenever moneys become available for defaulted interest, and notice of any such Special Record Date shall be given not less than ten days prior thereto in the manner required by the Depository or by first-class mail, to the registered owners of the Bonds as of a date selected by the Registrar, stating the Special Record Date and the date fixed for the payment of such defaulted interest.

C. Book-Entry. The Bonds may be issued or registered, in whole or in part, in book-entry form from time to time with no physical distribution of bond certificates made to the public, with a Depository acting as securities depository for the Bonds. A single certificate for each maturity date of the Bonds issued in book-entry form will be delivered to the Depository and

immobilized in its custody. The book-entry system will evidence ownership of the Bonds in authorized denominations, with transfer of ownership effected on the books of the Depository and its participants ("Participants"). As a condition to delivery of the Bonds in book-entry form, the Purchaser will, immediately after acceptance of delivery thereof, deposit, or cause to be deposited, the Bond certificates with the Depository, registered in the name of the Depository or its nominee. Principal and interest will be paid to the Depository or its nominee as the registered owner of the Bonds. The transfer of principal and interest payments to Participants will be the responsibility of the Depository; the transfer of principal and interest payments to the beneficial owners of the Bonds (the "Beneficial Owners") will be the responsibility of Participants and other nominees of Beneficial Owners maintaining a relationship with Participants (the "Indirect Participants"). The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Depository, Participants or Indirect Participants.

If (i) the Bonds are not eligible for the services of the Depository, (ii) the Depository determines to discontinue providing its services with respect to the Bonds or (iii) the City determines that a continuation of the system of book-entry transfers through the Depository ceases to be beneficial to the City or the Beneficial Owners, the City will either identify another Depository or certificates for the Bonds will be delivered to the Beneficial Owners or their nominees, and the Beneficial Owners or their nominees, upon authentication of Bonds and registration of those Bonds in the Beneficial Owners' or nominees' names, will become the owners of the Bonds for all purposes. In that event, the City shall mail an appropriate notice to the Depository for notification to Participants, Indirect Participants and Beneficial Owners of the substitute Depository or the issuance of bond certificates to Beneficial Owners or their nominees, as applicable.

Authorized Officers of the City are authorized to sign agreements with Depositories relating to the matters set forth in this Section.

Notwithstanding any other provision of this Ordinance, so long as all of the Bonds are

registered in the name of the Depository or its nominee, all payments of principal and interest on the Bonds, and all notices with respect to the Bonds, shall be made and given by the Paying Agent, Registrar or the City to the Depository as provided in this Ordinance and by the Depository to its Participants or Indirect Participants and notices to the Beneficial Owners of the Bonds in the manner provided in an agreement or letter of the City to the Depository.

Section 6. Redemption.

A. Optional Redemption. The Bonds may be subject to redemption prior to their stated maturities at the City's option in one or more units of principal of $5,000 on at the price and on the dates established in the Pricing Certificate and the Bond Purchase Agreement. Redemption shall be made upon prior notice mailed to each registered owner of each bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

B. Notice by City. At least 45 days prior to any date selected by the City for optional redemption of any of the Bonds, the City shall give written instructions to the Registrar with respect to the optional redemption. The Registrar shall not be required to give notice of any optional redemption unless the Registrar has received written instructions from the City in regard thereto at least 45 days prior to such redemption date (unless such deadline is waived by the Registrar). Additionally, notice of optional redemption shall be given by the City by sending a copy of such notice by first-class, postage prepaid mail, not less than thirty days prior to the optional redemption date to the Paying Agent, if the Registrar is not the Paying Agent.

C. Notice by Registrar. Additionally, notice of redemption shall be given by the Registrar by sending a copy of such notice in the manner required by the Depository or by first-class, postage prepaid mail, not more than 60 days and not less than 30 days prior to the redemption date to each registered owner of each Bond selected for redemption as shown on the registration books kept by the Registrar as of the date of mailing of notice. Failure to give such notice by

mailing to the registered owner of any Bond, or any defect therein, shall not affect the validity of the proceedings for the redemption of any of the Bonds.

D. Other Redemption Details. The notice required by paragraph C of this Section shall specify the number or numbers of the Bond or Bonds or portions thereof to be so redeemed (if less than all are to be redeemed); and all notices required by this Section shall specify the date fixed for redemption, and shall further state that on such redemption date there will become and be due and payable upon each $5,000 unit of principal so to be redeemed at the Paying Agent the principal thereof, accrued interest, if any, to the redemption date, and the applicable prior redemption premium thereon (if any), and that from and after such date interest will cease to accrue. Accrued interest to the redemption date will be paid by check or draft mailed to the registered owner (or by alterative means if so agreed to by the Paying Agent and the registered owner). Notice having been given in the manner hereinbefore provided, the Bond or Bonds so called for redemption shall become due and payable on the redemption date so designated; and upon presentation thereof at the Paying Agent, the City will pay the Bond or Bonds so called for redemption and the applicable prior redemption premium (if any). In the event that only a portion of the principal amount of a Bond is so redeemed, a new Bond representing the unredeemed principal shall be duly completed, authenticated and delivered by the Registrar to the registered owner pursuant to Section 9 of this Ordinance and without charge to the registered owner thereof. The Registrar and Paying Agent shall comply with any other terms regarding redemption and notice of redemption as required by any applicable agreement with a Depository.

E. Conditional Redemption. If money or Government Obligations sufficient to pay the redemption price of the Bonds to be called for redemption are not on deposit with the Paying Agent prior to the giving of notice of redemption pursuant to Paragraph D of this Section 6, such notice shall state such Bonds will be redeemed in whole or in part on the redemption date in a principal amount equal to that part of the redemption price received by the Paying Agent on the

applicable redemption date. If the full amount of the redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Bonds for which the redemption price is on deposit with the Paying Agent. If all Bonds called for redemption cannot be redeemed, the Bonds to be redeemed shall be selected in a manner deemed reasonable and fair by the City and the Registrar shall give notice, in the manner in which the original notice of redemption was given, that such money was not received and the information required by paragraph E of this Section. In that event, the Registrar shall promptly return to the Owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been redeemed.

Section 7. Negotiability. Subject to the provisions specifically made or necessarily implied herein, the Bonds shall be fully negotiable, and shall have all the qualities of negotiable paper, and the registered owner or owners thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code.

Section 8. Execution.

A. Filing Manual Signatures. Prior to the execution and authentication of any Bond pursuant to Sections 6-9-1 through 6-9-6, NMSA 1978, the Mayor and City Clerk may each forthwith file with the Secretary of State of New Mexico, his or her manual signature certified by him or her under oath; provided, that such filing shall not be necessary for any officer where any previous such filing may have legal application to the Bonds.

B. Method of Execution. Each Bond of the issue shall be signed and executed by the facsimile or manual signature of the Mayor under facsimile or manual imprint of the seal of the City, which shall be printed, stamped, engraved or otherwise placed thereon; each Bond shall be executed and attested with the facsimile or manual signature of the City Clerk; and each Bond shall be authenticated by the manual signature by an Authorized Officer of the Registrar as hereafter provided. The Bonds bearing the facsimile or manual signature of the officers in office at the time of the authorization thereof shall be the valid and binding obligations of the City (subject to the

requirement of authentication by the Registrar as hereinafter provided) notwithstanding that before the delivery thereof and payment therefor, or before the issuance thereof upon transfer or exchange, any or all of the persons whose facsimile signatures appear thereon shall have ceased to fill their respective offices. The Mayor and City Clerk of the City shall, by the execution of a signature certificate pertaining to the Bonds, adopt as and for their respective signatures the facsimiles thereof appearing on the Bonds; and, at the time of the execution of the signature certificate, the Mayor and City Clerk may each adopt as and for his or her facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears upon any of the Bonds.

C. Certificate of Authentication. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication, substantially in the form hereinafter provided, has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been duly executed by it if manually signed by an Authorized Officer of the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued under this Ordinance.

Section 9. Provisions Relating to Registration, Transfer, Replacement and Cancellation of and Registration Records for the Bonds.

A. Registration Books -- Transfer and Exchange -- Authentication. Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer of any Bonds at the Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not contemporaneously outstanding. Bonds may be exchanged at the Registrar for an equal aggregate principal amount of Bonds of the same maturity of other authorized denominations. The Registrar

shall authenticate and deliver a Bond or Bonds which the registered owner making the exchange is entitled to receive, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds as provided in this Ordinance shall be without charge to the owner or any transferee, but the Registrar may require the payment by the owner of any Bond requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.

B. Times When Transfer or Exchange Not Required. The Registrar shall not be required (1) to transfer or exchange all or a portion of any Bond subject to prior redemption during the period of fifteen days next preceding the mailing of notice to the registered owners calling any Bonds for prior redemption pursuant to Section 6 of this Ordinance or (2) to transfer or exchange all or a portion of a Bond after the mailing to registered owners of notice calling such Bond or portion thereof for prior redemption.

C. Payment - Registered Owners. The person in whose name any Bond is registered on the registration books kept by the Registrar shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes except as may otherwise be provided with respect to payment of defaulted interest as provided in Section 5B of this Ordinance; and payment of or on account of either principal or interest on any Bond shall be made only to or upon the written order of the registered owner thereof or his legal representative, but such registration may be changed upon transfer of such Bond in the manner and subject to the conditions and limitations provided in this Ordinance. All such payments shall be valid and effectual to discharge the liability upon the Bond to the extent of the sum or sums so paid.

D. Replacement Bonds. If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such evidence, information or indemnity relating thereto as it may reasonably require, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same subseries and maturity, bearing a number or numbers not

contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Bond shall have matured, the Registrar may direct the Paying Agent to pay such Bond in lieu of replacement.

. Delivery of Bond Certificates to Registrar. The officers of the City are authorized to deliver to the Registrar fully executed but unauthenticated Bonds in such quantities as may be convenient to be held in custody by the Registrar pending use as provided in this Ordinance.

F. Cancellation of Bonds. Whenever any Bond shall be surrendered to the Paying Agent upon payment of the Bond, or to the Registrar for transfer, exchange or replacement as provided in this Ordinance, the Bond shall be promptly canceled by the Paying Agent or Registrar, and counterparts of a certificate of such cancellation shall be furnished by the Paying Agent or Registrar to the City.

Section 10. Successor Registrar or Paying Agent. If the Registrar or Paying Agent initially appointed under this Ordinance shall resign or is prohibited by law from continuing as Registrar or Paying Agent, or if the City shall reasonably determine that the Registrar or Paying Agent has become incapable of fulfilling its duties under this Ordinance, the City may, upon notice mailed to each registered owner of Bonds at the address last shown on the registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having a shareholder's equity (e.g., capital stock, surplus and undivided profits), however denominated, not less than $50,000,000. It shall not be required that the same institution serve as both Registrar and Paying Agent hereunder, but the City shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

Section 11. Special Limited Obligations. The Bonds and all payments of principal and interest thereon, (whether at maturity or on a redemption date) and the obligations of the City for all other payments, fees, costs, interest and expenses of the City under this Ordinance and under the Related Documents, including all payments due from the City under a Qualified Exchange

Agreement, shall be special limited obligations of the City. The principal of and interest on the Bonds and all obligations of the City under the Related Documents shall be payable solely from the Pledged Revenues after payment of any Superior Tax Obligations (and in the case of Exchange Termination Payments, after payment of the Bonds and any Parity Subordinate Obligations), which revenues are hereby pledged.

Owners of the Bonds and other parties to the Related Documents, including a Qualified Counterparty, may not look to any general or other fund of the City for the payment of the principal of or interest on, or the fees, costs and expenses relating to, such obligations, except the designated special funds pledged therefor. Neither the Bonds nor the obligations of the City under the Related Documents shall constitute an indebtedness of the City within the meaning of any constitutional, charter or statutory prohibition or limitation, nor shall they be considered or held to be general obligations of the City, and the Bonds, any Related Document and any Qualified Exchange Agreement shall recite that they are payable and collectable solely out of the Pledged Revenues (and in the case of Exchange Termination Payments, after payment of Parity Subordinate Obligations and Subordinate Obligations), and from the other sources stated in this Section, and that the Owners of the Bonds, any other party or a Qualified Counterparty may not look to any general or other municipal fund for the payment of the principal or interest, as applicable, on the Bonds or for the payment of any amounts owed under the Related Documents.

Nothing herein shall prevent or prohibit the City from applying other funds of the City legally available therefor to the payment or redemption of the Bonds or to the payment of any amounts owed under a Related Document, in its sole discretion.

Section 12. Form of Bonds, Certificate of Authentication and Assignment.

The Bonds, Registrar's Certificate of Authentication and Form of Assignment shall be in substantially the form set forth in this Section, with such changes therein as are not inconsistent with this ordinance.

(Form of Series 2021 Bond)

UNITED STATES OF AMERICA

COUNTY OF SANTA FE

STATE OF NEW MEXICO

No._____

$_____

CITY OF SANTA FE

SUBORDINATE LIEN GROSS RECEIPTS TAX

REFUNDING REVENUE BOND,

SERIES 2021

INTEREST RATE	MATURITY DATE	SERIES DATE	CUSIP
____% per annum	June 1, ___	___, 2021	

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

DOLLARS

The City of Santa Fe (herein "City"), in the County of Santa Fe and State of New Mexico, for value received, hereby promises to pay upon presentation and surrender of this bond, solely from the special funds provided therefor as hereinafter set forth, to the registered owner named above, or registered assigns, on the Maturity Date specified above (unless this bond, if subject to

prior redemption, shall have been called for prior redemption in which case on such redemption date), upon the presentation and surrender hereof at BOKF, NA, Albuquerque, New Mexico, as paying agent, or its successor (herein the "Paying Agent"), the Principal Amount stated above, in lawful money of the United States of America, and to pay to the registered owner hereof as of the Regular Record Date (being the 15th day of the calendar month whether or not a business day preceding each regularly scheduled interest payment date as defined in Ordinance No. _____, adopted July 28, 2021, which authorizes this bond and which is referred to herein as the "Bond Ordinance"), by check or draft mailed to such registered owner, on or before each interest payment date as hereinafter provided (or, if such interest payment date is not a business day, on or before the next succeeding business day), at his address as it last appears on the Regular Record Date on the registration books kept for that purpose by BOKF, NA, Albuquerque, New Mexico, as registrar (i.e., transfer agent) for the bonds, or its successor (herein the "Registrar") or by such other arrangement as may be agreed to by the Paying Agent and the registered owner hereof, interest on such sum in lawful money of the United States of America from the Series Date specified above or the most recent interest payment date to which interest has been fully paid or duly provided for in full (as more fully provided in the Bond Ordinance) until maturity at the per annum Interest Rate specified above, payable on December 1, 2021and semiannually thereafter on June 1 and December 1 in each year. Any such interest not so timely paid or duly provided for shall cease to be payable to the registered owner as of the Regular Record Date and shall be payable to the registered owner as of a Special Record Date (as defined in the Bond Ordinance), as further provided in the Bond Ordinance. If upon presentation and surrender to the Paying Agent at or after maturity or on a designated prior redemption date on which the City may have exercised its right to prior redeem this bond pursuant to the Bond Ordinance, payment of this bond is not made as herein provided, interest hereon shall continue at the rate herein designated until the principal hereof is paid in full. If the Bonds are issued in book-entry only form, an authorized officer of the City and the applicable

securities depository ("Depository") may make other arrangements for the payments on the Bonds.

The bonds of the series of which this bond is a part maturing on and after June 1, ____, are subject to redemption prior to maturity at the City's option in one or more units of principal of $5,000 on an after June 1, ____, in whole or in part at any time, in such order of maturities as the City may determine (and by lot if less than all of the Bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner as he shall consider appropriate and fair), at a redemption price equal to the principal amount of the Bonds or the portion thereof to be redeemed plus accrued interest, if any, to the redemption date.

Redemption shall be made upon mailed notice to each registered owner of each bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

The bonds of the series of which this is one are fully registered (i.e., registered as to payment of both principal and interest), and are issuable in the denomination of $5,000 or any denomination which is an integral multiple of $5,000 (provided that no bond may be in a denomination which exceeds the principal coming due on any maturity date and no individual bond will be issued for more than one maturity). Upon surrender of any of such bonds at the Registrar with a written instrument satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney, such bond may, at the option of the registered owner or his duly authorized attorney, be exchanged for an equal aggregate principal amount of such bonds of the same maturity of other authorized denominations, subject to such terms and conditions as set forth in the Bond Ordinance.

This bond is fully transferable by the registered owner hereof in person or by his duly authorized attorney on the registration books kept by the Registrar upon surrender of this bond together with a duly executed written instrument of transfer satisfactory to the Registrar. Upon such transfer a new fully registered bond of authorized denomination or denominations of the same

aggregate principal amount and maturity will be issued to the transferee in exchange for this bond, subject to such terms and conditions as set forth in the Bond Ordinance. The City and the Registrar and Paying Agent may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of making payment and for all other purposes.

This bond is one of a series of bonds designated "City of Santa Fe Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021," of like tenor and date, except as to interest rate, number and maturity, authorized for the purpose of (1) refunding, discharging and paying the City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2010B maturing on and after June 1, 2022, (2) refunding, discharging and paying the City of Santa Fe, New Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012A maturing on and after June 1, 2022, and (3) paying Costs of Issuance of the Bonds, as set forth in the Bond Ordinance.

This bond is issued pursuant to and in strict compliance with the Constitution and laws of the State of New Mexico.

This bond does not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, shall not be considered or be held to be a general obligation of the City, and is payable and collectible solely from the Pledged Gross Receipts Tax Revenues pursuant to the Bond Ordinance, which revenues are so pledged; and the holder of this bond may not look to any general or other fund for the payment of the principal and interest on this obligation, except the special funds pledged therefor. Payment of the bonds of the series of which this bond is one and the interest thereon shall be made solely from, and as security for such payment, there are pledged pursuant to the Bond Ordinance special funds identified as the "One-Half Percent Gross Receipts Tax Revenue Fund," the "Infrastructure Gross Receipts Tax Revenue Fund" and the "State-Shared Gross Receipts Tax Revenue Fund" into which the City covenants to pay the Pledged Gross Receipts Tax Revenues, after payment of all outstanding Superior Lien Gross

Receipts Tax Obligations, and concurrently with debt service payments for outstanding Parity Subordinate Lien Obligations, sums sufficient to pay when due the principal of and the interest on the bonds of the series of which this bond is one. For a description of the funds, the nature and extent of the security afforded thereby for the payment of the principal of and interest on the bonds, and other details concerning the bonds, reference is made to the Bond Ordinance. Additional bonds and other obligations, in addition to the series of which this bond is one, may be issued and made payable from the City's Pledged Gross Receipts Tax Revenues having a lien thereon superior to, on parity with, or junior to the lien of the bonds of the series of which this bond is one, in accordance with the provisions of the Bond Ordinance and the ordinances authorizing the issuance of the outstanding Superior Lien Gross Receipts Tax Obligations, or Subordinate Lien Gross Receipts Tax Obligation, as applicable.

The City covenants and agrees with the registered owner of this bond and with each and every person who may become the registered owner hereof that it will keep and perform all of the covenants of the Bond Ordinance.

This bond is subject to the conditions, and every registered owner hereof by accepting the same agrees with the obligor and every subsequent registered owner hereof that the principal of and the interest on this bond shall be paid, and this bond is transferable, free from, and without regard to any equities between the obligor and the original or any intermediate registered owner hereof for any setoffs or cross-claims.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the City Council and officers of the City in the issuance of this bond; and that it is issued pursuant to and in strict conformity with the Constitution and laws of the State of New Mexico, and particularly the terms and provisions of Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and all laws thereunto enabling and supplemental thereto.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have

manually signed the certificate of authentication herein.

IN WITNESS WHEREOF, the City of Santa Fe has caused this bond to be signed, subscribed, and executed, and attested with the facsimile signatures of its Mayor and its City Clerk, respectively and has caused the facsimile of its corporate seal to be affixed on this bond, all as of the Series Date.

CITY OF SANTA FE

[(FACSIMILE SEAL)] By (Facsimile Signature)

Mayor

ATTEST:

By (Facsimile Signature)

City Clerk

(Form of Registrar's Certificate of Authentication)

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

Date of Authentication: ___, 2021

This is one of the bonds described in the within-mentioned Bond Ordinance, and this bond has been duly registered on the registration books kept by the undersigned as Registrar for such Bonds.

BOKF, NA,

Albuquerque, New Mexico, as Registrar

By _____

Authorized Officer

(End of Form of Registrar's Certificate of Authentication)

(Form of Assignment)

ASSIGNMENT

For value received, _____ hereby sells, assigns and transfers unto

_____ the within bond and hereby irrevocably constitutes and appoints _____ attorney, to transfer the same on the books of the Registrar, with full power of substitution in the premises.

Signature Guaranteed: _____

Name and Address of Transferee

_____ _____

_____

Dated: _____ Social Security Number or other

Tax Identification Number

_____

_____

(End of Form of Assignment)

(End of Form of Series 2021 Bond)

Section 13. Period of Project's Usefulness. It is hereby determined and recited that the useful life of the capital projects financed with proceeds of the Refunded Series 2010B Bonds and Refunded Series 2012A Bonds is not less than the final maturity date of the Bonds.

Section 14. Delivery of Bonds and Initial Registration. When the Bonds have been duly executed, authenticated, registered and sold, the Mayor or other Authorized Officer identified in Section 4B hereof shall deliver them to the Purchaser on receipt of the agreed purchase price. The Registrar shall initially register the Bonds in the name of Cede & Co.

Section 15. Authorization to Execute Related Documents and Delegated Authority.

A. Approval of Documents; Ratification. The form, terms and provisions of the Related Documents are in all respects approved, authorized and confirmed, with such changes therein not inconsistent with this Ordinance as the Authorized Officers of the City deem necessary

or desirable.

B. Delegated Authority and Execution of Documents. In addition to the delegation of authority provided in Section 4B hereof, the officers, agents and employees of the City are authorized, empowered and directed to take all action required by this Ordinance, and all such other action as may be necessary or appropriate to effectuate the provisions of this Ordinance, the Related Documents and any other documents as may be necessary or appropriate to carry out and comply with the provisions of this Ordinance.

Section 16. Use of Bond Proceeds; Purchaser Not Responsible. Except as herein otherwise specifically provided in this Ordinance, the proceeds from the sale of the Bonds shall be used and paid solely for the valid costs of the Refunding Project.

A. Refunding Account. An amount of proceeds received from the sale of the Bonds shall be deposited in the Refunding Account and used to pay the costs of the Refunding Project.

B. Payment of Costs of Issuance. An amount of proceeds received from the sale of the Bonds shall be used to pay Costs of Issuance, and to the extent not needed to pay Costs of Issuance, shall be deposited in the Series 2021 Bond Fund.

C. Project Completion. It is anticipated that the Refunding Project shall be completed on the date of delivery of the Bonds.

D. Purchaser Not Responsible. The validity of the Bonds is not dependent on nor affected by the validity or regularity of any proceedings related to the completion of the Refunding Project as defined in this Ordinance. The Purchaser of the Bonds, and any subsequent owner of any Bonds, shall in no manner be responsible for the application or disposal by the City or by any officer or any employee or other agent of the City of the moneys derived from the sale of the Bonds or of any other moneys designated in this Ordinance.

Section 17. Establishment and Continuance of Funds and Accounts. The City hereby creates, or continues, as applicable, the following special and separate trust funds:

A. Refunding Account. The Refunding Account to be maintained by the Paying Agent is hereby created for the deposit of a portion of the proceeds of the Bonds for the Refunding Project.

B. State-Shared Gross Receipts Tax Revenue Fund. The "City of Santa Fe, New Mexico State-Shared Gross Receipts Tax Revenue Account of the General Fund of the City," is hereby continued to be maintained by the City and deposited in an Insured Bank, into which the City shall deposit the State-Shared Gross Receipts Tax Revenues.

C. One-Half Percent Municipal Gross Receipts Tax Revenue Fund. The "City of Santa Fe, New Mexico One-Half Percent Municipal Gross Receipts Tax Revenue Fund," is hereby continued to be maintained by the City and deposited in an Insured Bank, into which the City shall deposit the One-Half Percent Municipal Gross Receipts Tax Revenues.

D. Infrastructure Gross Receipts Tax Revenue Fund. The "City of Santa Fe, New Mexico Infrastructure Gross Receipts Tax Revenue Fund," is hereby continued to be maintained by the City and deposited in an Insured Bank, into which the City shall deposit the Infrastructure Gross Receipts Tax Revenues.

E. Environmental Services Gross Receipts Tax Revenue Fund. The "City of Santa Fe, New Mexico Environmental Services Gross Receipts Tax Revenue Fund," is hereby continued to be maintained by the City and deposited in an Insured Bank, into which the City shall deposit the Environmental Services Gross Receipts Tax Revenues.

F. Series 2021 Bond Fund. The "City of Santa Fe Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021, Bond Fund" is hereby created to be maintained by the City and deposited in an Insured Bank.

Section 18. Administration of Pledged Gross Receipts Tax Revenue Fund. So long as any of the Bonds shall be outstanding, either as to principal or interest or both, the following payments shall be made monthly from the Pledged Gross Receipts Tax Revenues:

A. Bond Fund Payments.

(1) First, as a first charge on the Pledged Revenues, the amounts necessary to pay the Debt Service Requirements on Superior Tax Obligations now outstanding or hereafter issued, or to fund any reserve account as required by the terms of any ordinance authorizing the issuance of Superior Tax Obligations, shall be withdrawn first from the One-Half Percent Municipal Gross Receipts Tax Revenue Fund, and if funds therein are insufficient, then if pledged for such Superior Tax Obligations, from the Infrastructure Gross Receipts Tax Revenue Fund, and, if pledged for such Superior Tax Obligations, from the Environmental Services Gross Receipts Tax Revenue Fund, if funds therein are still insufficient, then from the State-Shared Gross Receipts Tax Revenue Fund in that order or in such other order as permitted or required by the authorizing ordinances, at the time prescribed in such authorizing ordinances.

(2) Second, but subject to and after the withdrawals authorized by the preceding paragraph A(1), so long as any of the Bonds shall be outstanding, the following amounts shall be withdrawn from the One-Half Percent Municipal Gross Receipts Tax Revenue Fund, then from the Infrastructure Gross Receipts Tax Revenue Fund if the moneys in the One-Half Percent Municipal Gross Receipts Tax Revenue Fund are not sufficient, and, if such moneys are still insufficient, then from the State-Shared Gross Receipts Tax Revenue Fund (unless the City determines that such amounts shall be withdrawn from such funds in some other order), and credited to the Bond Fund:

(a) Interest Payments. Monthly, commencing on the first day of the first month following the delivery of the Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of interest on the Bonds then outstanding and monthly thereafter commencing on each interest payment date, one-sixth (1/6th)

of the amount necessary to pay the next maturing installment of interest on the outstanding Bonds, and

(b) Principal Payments. Monthly, commencing on the first day of the first month following delivery of the Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of principal on the Bonds then outstanding and monthly thereafter commencing on the first day of the twelfth month preceding each principal payment date, one-twelfth (1/12th) of the amount necessary to pay the next maturing installment of principal on the Bonds.

(3) Third, but concurrently with the payments required by paragraph A(2) of this section, funds remaining in the One-Half Percent Municipal Gross Receipts Tax Revenue Fund, and if the funds therein are insufficient, then funds remaining in the Infrastructure Gross Receipts Tax Revenue Fund, and if the funds therein are insufficient, then funds remaining in the State-Shared Gross Receipts Tax Revenue Fund and, if pledged therefor, funds remaining in the Environmental Services Gross Receipts Tax Revenue Fund, shall be used by the City to pay the Debt Service Requirements of such additional Parity Subordinate Obligations, if any, hereafter authorized to be issued and payable from Pledged Revenues.

If, prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in subparagraphs 2(a) and 2(b) (whichever is applicable) of this paragraph, may be appropriately reduced and the required monthly amounts again shall be so credited to such account commencing on such interest payment date or principal payment date (whichever is applicable).

B. Debt Service Reserve Fund. No debt service reserve fund will be created or

required for the Bonds.

C. Termination Upon Deposits to Maturity. No payment need be made into the Series 2021 Bond Fund if the amount in such fund totals a sum at least equal to the entire amount of the Bonds then outstanding, both as to principal and interest to their respective maturities, and both accrued and not accrued, in which case, moneys in the Series 2021 Bond Fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such as the same accrue and any moneys in excess thereof in the Series 2021 Bond Fund and any other moneys derived from the Pledged Revenues may be used in any lawful manner determined by the City.

D. Defraying Delinquencies in the Series 2021 Bond Fund; Use of Moneys in the Series 2021 Bond Fund. If, in any month, amounts in the One-Half Percent Municipal Gross Receipts Tax Revenue Fund are insufficient to make the payments into the Series 2021 Bond Fund required by Paragraph A(2) of this Section 18, there shall be withdrawn first from the Infrastructure Gross Receipts Tax Revenue Fund and then from the State-Shared Gross Receipts Tax Revenue Fund, and deposited in the Series 2021 Bond Fund the additional amounts necessary to make the payments into the Series 2021 Bond Fund required by Paragraph A of this Section 18. The moneys in the Series 2021 Bond Fund shall be used solely and only for the purpose of paying the principal of and the interest on the Bonds issued under this Ordinance; provided, however, that any moneys in the Series 2021 Bond Fund in excess of accrued and unaccrued principal and interest requirements to the respective maturities of the outstanding Bonds may be used in any lawful manner.

E. Payment of Additional Obligations and Qualified Exchange Agreements. Either prior to, concurrently with or subsequent to the payments required by Paragraph A of this Section 18, depending upon whether the additional Obligations are Superior Obligations or Parity Subordinate Obligations or Super Subordinate Obligations (as defined in Section 21 hereof) as provided in this Ordinance, the Pledged Gross Receipts Tax Revenues shall be used by the City for

the payment of Debt Service Requirements on additional Obligations, if any, hereafter authorized to be issued and payable from the Pledged Revenues as the same accrue. In the event that such obligations are Parity Subordinate Obligations, the payments of Debt Service Requirements on such additional Obligations shall be made concurrently with the payments required by Paragraphs A(2), A(3) and D of this Section 18 (provided that such payments may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional Obligations). The following amounts required to be paid by the City shall be paid from Pledged Gross Receipts Tax Revenues with the same priority as other payments of Debt Service Requirements on Parity Subordinate Obligations:

(1) Any amount to reimburse or pay a bond insurer or reserve account insurer or guarantor, or to make payments or reimbursements pursuant to another Credit Facility, for payments of Debt Service Requirements made on Parity Subordinate Obligations; and amounts payable to a Qualified Counterparty under a Qualified Exchange Agreement, excluding Exchange Termination Payments, if such payments are designated in a City ordinance relating to that Qualified Exchange Agreement as having a lien on Pledged Revenues on parity with the lien thereon of Parity Subordinate Obligations;

(2) Reimbursement of any reserve fund Credit Facility obtained for any issue of Parity Subordinate Obligations; and

(3) Cash deposits to any required reserve fund established with respect to any issue of Parity Subordinate Obligations.

Each payment of Debt Service Requirements on Parity Subordinate Obligations shall be transferred to the Paying Agent for payment of Parity Subordinate Obligations, or directly to a Qualified Counterparty, bond insurer, reserve account insurer or guarantor or other provider of a Credit Facility entitled to receive payments on Parity Subordinate Obligations, on or before the due date of such payment.

F. Payment of Expenses and Certain Obligations which are not Parity Subordinate Obligations. After and subject to the payments required, and provisions contained in, any of the preceding paragraphs of this Section, any remaining Pledged Gross Receipts Tax Revenues shall be used, to the extent necessary, for payment of: (i) any other amounts, expenses, fees and interest owed by the City relating to the issuance, delivery, servicing, payment, redemption and refunding of Parity Subordinate Obligations and (ii) other Obligations relating to Parity Subordinate Obligations owed by the City pursuant to the Related Documents, any Qualified Exchange Agreement (excluding Exchange Termination Payments), bond insurance policy, reserve fund insurance policy or similar documents which are not payable pursuant to any other prior paragraph of this Section.

G. RESERVED.

H. Use of Surplus Revenues. After making the payments required to be made by Paragraphs A to F of this Section 18, the remaining Pledged Gross Receipts Tax Revenues, if any, may be applied to any other lawful purposes. The One-Half Percent Municipal Gross Receipts Tax Revenues received by the City pursuant to the One-Half Percent Municipal Gross Receipts Tax Ordinance shall be used only for the purposes authorized by that ordinance. The Infrastructure Gross Receipts Tax Revenues received by the City pursuant to the Infrastructure Gross Receipts Tax Ordinance shall be used only for the purposes authorized by that ordinance. The Environmental Services Gross Receipts Tax Revenues received by the City pursuant to the Environmental Services Gross Receipts Tax Ordinance shall be used only for the purposes authorized in that ordinance.

I. Variable Interest Rate. In making the computations required by this Section, interest on Obligations which bear a Variable Interest Rate shall be computed: (i) at the actual Variable Interest Rate or Variable Exchange Rate for the computation period, if such rate can be computed exactly, or (ii) if the Variable Interest Rate or Variable Exchange Rate cannot be

computed exactly, at the actual rate for the immediately preceding computation period.

Section 19. General Administration of Funds. The funds and accounts designated in Sections 16 through 18 of this Ordinance shall be administered as follows:

A. Investment of Money. Any moneys in any fund designated in Sections 16 through 18 may be invested in any Permitted Investments. The obligations so purchased as an investment of moneys in a fund shall be deemed at all times to be part of the fund, and the interest accruing thereon and any profit realized therefrom shall be credited to the fund, and any loss resulting from each investment shall be charged to the fund. The City Finance Director shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

B. Deposits of Funds. Except for direct investments in Permitted Investments allowed by Paragraph A of this Section 19, the moneys and investments comprising each of the funds and accounts hereinabove designated in Sections 16 through 18 of this Ordinance shall be maintained and kept separate from all other funds and accounts in an Insured Bank or Insured Banks. The amounts prescribed shall be paid to the appropriate funds as specified in Sections 16 through 18. Each payment shall be made into the proper bank account and credited to the proper fund not later than the last day designated; provided that when the designated date is a Sunday or a legal holiday, then such payment shall be made on the next preceding secular day. Nothing in this Ordinance shall prevent the establishment of one such bank account or more (or consolidation with any existing bank account), for all of the funds and accounts in Sections 16 through 18 of this Ordinance.

Section 20. Subordinate Lien on Pledged Revenues. The Pledged Gross Receipts Tax Revenues and the amounts and securities on deposit in the Bond Fund, and the proceeds thereof, are hereby authorized to be pledged to, and are hereby pledged, and the City grants a

security interest therein, for the payment of the principal of and interest on the Bonds, subject to the uses thereof permitted by, and the priorities set forth in, this Ordinance. The Bonds constitute an irrevocable subordinate lien (but not an exclusive subordinate lien) on the Pledged Revenues subordinate to the lien thereon of Superior Obligations, and co-equal with the lien thereon of the outstanding Parity Subordinate Obligations.

Section 21. Additional Superior Obligations and Parity Subordinate Obligations.

A. Limitations Upon Issuance of Additional Superior Obligations. No provision of this Ordinance shall be construed in such a manner as to prevent the issuance by the City of additional Obligations payable from Pledged Revenues and constituting a lien upon such revenues prior and superior to the lien of the Bonds on Pledged Revenues. Before any additional Superior Obligations are issued or Obligations refunding outstanding Superior Obligations, the conditions set forth in the ordinances authorizing the issuance of Superior Obligations or refunding Superior Obligations, as applicable, must be satisfied.

Before any additional Parity Subordinate Obligations are actually issued (excluding refunding bonds the proceeds of which are used to refund Superior Obligations as provided in Section 22, but including Parity Subordinate Obligations which are refunding bonds which refund subordinate obligations), the following conditions shall be met:

(1) The Parity Subordinate Obligations must be Obligations; and

(2) The City shall then be current in all of the deposits required to be made with respect to the Parity Subordinate Obligations (including, if applicable, any obligation to fund any reserve account required by the terms of any ordinance authorizing the issuance of any such Obligations); and

(3)

(a) No additional Parity Subordinate Obligations shall be issued unless the Pledged Gross Receipts Tax Revenues for the Historic Test Period shall

have been sufficient to pay an amount representing two hundred percent (200%) of the combined maximum annual Debt Service Requirements coming due in any subsequent Fiscal Year on the then outstanding Superior Obligations, outstanding Parity Subordinate Obligations and the Parity Subordinate Obligations proposed to be issued (excluding the accumulation of any reserves therefor); and

(b) In making the computations required by this subparagraph (3) other gross receipts tax revenues, including without limitation, the Environmental Services Gross Receipts Tax Revenues, received by the City, whether from distribution by the State or pursuant to gross receipts taxes imposed by the City (other than State-Shared Gross Receipts Tax Revenues) pledged to the Superior Obligations, Parity Subordinate Obligations and the Parity Subordinate Obligations proposed to be issued, may be included only to the extent such gross receipts tax revenues are pledged to a particular series of such outstanding Obligations or proposed Parity Subordinate Obligations and only to the extent of the maximum annual Debt Service Requirements on such outstanding Obligations or proposed Parity Subordinate Obligations.

B. Super Subordinate Obligations Permitted; Certain Obligations Prohibited. No provision of this Ordinance shall be construed in such a manner as to prevent the issuance by the City of additional Obligations payable from the Pledged Revenues with a lien on Pledged Revenues subordinate and junior to the lien of the Bonds thereon, nor to prevent the issuance of Obligations refunding all or part of the Bonds as permitted by Section 22.

C. Variable Interest Rate. In making the computations required by this Section 21 and Section 22, Obligations which bear a Variable Interest Rate shall be deemed to bear interest at the maximum rate permitted for those Obligations.

D. Certificate of City Finance Director. A written certificate or opinion of the City

Finance Director that the Pledged Revenues for the applicable Historic Test Period are sufficient to pay the amounts required in this Section 21 shall be required in making a determination that the requirements set forth in this Section have been satisfied and shall be conclusively presumed to be accurate in determining that such requirements have been satisfied.

E. Bond Anticipation Notes. Whenever the City shall have authorized the issuance of Superior Obligations or Parity Subordinate Obligations under the Act and the City shall, at the time, be permitted by the laws of the State to issue notes representing loans in anticipation of the sale of such Superior Obligations or Parity Subordinate Obligations ("Bond Anticipation Notes"), the City may by resolution or ordinance authorize the issuance of Bond Anticipation Notes in anticipation of the sale of such Superior Obligations or Parity Subordinate Obligations, provided, however, that before any Bond Anticipation Notes are actually issued, the conditions of Section 21A shall be met. Bond Anticipation Notes shall not be issued in an amount exceeding the principal amount of the Superior Obligations or Parity Subordinate Obligations in anticipation of the sale of which such notes are proposed to be issued.

For the purposes of determining compliance with this Section, as of the date of issuance of any Bond Anticipation Notes, the aggregate principal amount of all outstanding Bond Anticipation Notes (including such proposed Bond Anticipation Notes) shall never exceed the principal amount of a hypothetical issue of Superior Obligations or Parity Subordinate Obligations which could be issued hereunder having an assumed final maturity of twenty (20) years, bearing an assumed rate of interest equal to the highest rate then borne by any Bond Anticipation Note then outstanding (or, if none, the interest rate borne by the proposed Bond Anticipation Notes to be issued) and having debt service due in each Fiscal Year in approximately equal amounts.

F. Put Obligations. In making the computations required by this Section 21 and Section 22, the principal amount of any Put Obligations to be outstanding in the Fiscal Year when the combined maximum annual Debt Service Requirements come due shall be excluded from the

maximum annual Debt Service Requirements only if the Credit Facility providing liquidity or standby purchase support for Put Obligations is rated, on the date the computations are made, "A" or better by Fitch or S&P (if such rating agencies are then rating the Bonds). If there is no Credit Facility for the Put Obligations or the rating requirement for the Credit Facility set forth in the preceding sentence is not satisfied, the principal amount of the Put Obligations to be outstanding in the Fiscal Year when combined maximum annual Debt Service Requirements come due shall be considered in computing maximum annual Debt Service Requirements.

Section 22. Refunding Bonds. The provisions of Section 21 hereof are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time after the Bonds, or any part thereof, shall have been issued and remain outstanding, the City shall find it desirable to refund any outstanding Parity Subordinate Obligations or other outstanding obligations payable from the Pledged Revenues, such bonds or other obligations, or any part thereof, may be refunded (but only with the consent of the registered owner or owners thereof, unless the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the City's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed (except as provided in Paragraph A of Section 21 and in Paragraphs B and C of this Section 22).

B. Limitations Upon Issuance of Refunding Obligations. No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on parity with the Bonds herein authorized, unless:

(1) The lien on the Pledged Revenues of the outstanding obligations so refunded is on parity with the lien thereon of the Bonds herein authorized; or

(2) The refunding bonds or other refunding obligations are issued in compliance with Paragraph A of Section 21 of this Ordinance.

C. Refunding Part of an Issue. The refunding bonds or other obligations so issued shall enjoy complete equality of lien with the portion of any bonds or other obligations of the same issue which is not refunded, if any there be; and the registered owner or owners of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the registered owner or owners of the bonds or other obligations of the same issue refunded thereby.

D. Limitations Upon Issuance of any Refunding Obligations. Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the City may by ordinance provide, subject to the inclusion of any such rights and privileges designated in Paragraph C of this Section 22, but without any impairment of any contractual obligations imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including but not necessarily limited to the issue herein authorized). If only a part of the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues are refunded, then such obligations may not be refunded without the consent of the registered owner or owners of the unrefunded portion of such obligations, unless:

(1) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest requirements evidenced by such refunding obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations, or

(2) The refunding bonds or other refunding obligations are issued in compliance with Paragraph A of Section 21 hereof, or

(3) The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

E. Cross-over Refunding Bonds. If the refunding bonds to be issued are Cross-over

Refunding Bonds, the ordinance providing for the issuance thereof shall provide (1) that until the date on which the principal portion of the related Parity Subordinate Obligations being refunded is to be paid or redeemed from the proceeds of such Cross-over Refunding Bonds, the Cross-over Refunding Bonds shall not be Parity Subordinate Obligations and shall be payable solely from the escrow provided for in the related ordinance, and (2) a certificate of an Independent Accountant shall be prepared to demonstrate the sufficiency of the moneys and investments in the escrow to pay the principal of and interest on the Cross-over Refunding Bonds until the date on which the principal portion of the related Parity Subordinate Obligations being refunded is to be paid or redeemed and to pay or redeem the related Parity Subordinate Obligations being refunded.

Section 23. Equality of Bonds. The Bonds authorized to be issued hereunder and from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged Revenues, regardless of the time or times of their issuance, it being the intention of the Governing Body that there shall be no priority among the Bonds regardless of the fact that they may be actually issued and delivered at different times.

Section 24. Protective Covenants. The City hereby covenants and agrees with each and every registered owner of the Bonds that:

A. Payment of Bonds Herein Authorized. The City will promptly pay the principal of and the interest on every Bond issued hereunder and secured hereby at the place, on the dates and in the manner specified herein and in the Bonds according to the true intent and meaning hereof. Such principal and interest are payable solely from the Pledged Revenues. Nothing in the Bonds, any Qualified Exchange Agreement or this Ordinance shall be construed as obligating the City to pay principal or interest on any of the Bonds from, and the holders of the Bonds and any Qualified Counterparty may not look to, any general or other fund of the City, except those specifically set forth herein.

B. Records. So long as any of the Bonds remain outstanding, proper books of record

and account will be kept by the City, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues.

C. Audits. The City further agrees that it will, by each March 31 following the close of each Fiscal Year, cause an audit of such books and accounts to be made by an Independent Accountant, showing the revenues and expenditures of the Pledged Revenues. The City agrees to furnish forthwith a copy of each of such audits and reports to the Purchaser upon request. Any registered owner of a Bond shall have the right to discuss, with the Independent Accountant or person making the audit, the report and the contents thereof and to ask for such additional information as he may reasonably require.

D. Extending Interest Payments. In order to prevent any accumulation of claims for interest after maturity, the City will not directly or indirectly extend or assent to extension of time for the payment of any claim for interest on any of the Bonds and it will not directly or indirectly be a party to or approve any arrangement for any such extension or for the purpose of keeping alive any of such interest.

E. Performing Duties. The City will faithfully and punctually perform all duties with respect to the Bonds required by the Constitution and laws of the State of New Mexico and the ordinances and resolutions of the City including but not limited to the proper segregation of the Pledged Revenues and their application of the respective funds.

F. Other Liens. Other than the outstanding Parity Obligations, the outstanding Subordinate Obligations and the Bonds as recited in this Ordinance, there are no liens or encumbrances of any nature whatsoever on or against the Pledged Revenues. This Ordinance does not prohibit the issuance of Parity Obligations with a lien on the Pledged Revenues on parity with the lien thereon of the Bonds nor the issuance of Subordinate Lien Gross Receipts Tax Obligations with a lien on the Pledged Revenues subordinate to the lien thereon of the Bonds.

G. City's Existence. The City will maintain its corporate identity and existence so

long as any of the Bonds herein authorized remain outstanding unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without affecting to any substantial degree the privileges and rights of any registered Owner of any outstanding Bonds.

H. Duty With Respect to Pledged Revenues. If the statutes or any ordinance which materially affects the Pledged Revenues or any part of such ordinances, shall ever be held to be invalid or unenforceable, it shall be the duty of the City, to the extent authorized by law, to immediately take any action necessary to produce sufficient Pledged Revenues to comply with the contracted obligations of this Ordinance, except as provided in Paragraph I of this Section 24.

I. Impairment of Contract. The City agrees that any law or ordinance or resolution of the City in any manner affecting the Pledged Revenues or the Bonds, or otherwise appertaining thereto, shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or provision has been fully made therefor, or unless the consent of the required percentage of the registered owners of the then outstanding Bonds is obtained pursuant to Section 32 of this Ordinance.

J. Tax Covenant. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Tax Code, including applicable regulations, rulings and judicial decisions, or (ii) be treated other than as bonds to which Section 103(a) of the Tax Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Tax Code. The City further covenants (a) that it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and to remain excluded from gross income for federal income tax purposes, (b) that it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) that it, or persons acting for it, will, among other acts

of compliance, (i) apply the proceeds of the Bonds to the governmental purposes of the borrowings, (ii) restrict the yield on investment property, (iii) make timely and adequate rebate payments, yield reduction payments or payments of alternative amounts in lieu of rebate to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Tax Code.

Authorized Officers of the City are hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in or available under Section 148 of the Tax Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting in the compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount, yield reduction payments or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate or yield reduction payments, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, including amounts required to be rebated to the United States pursuant to Section 148(f) of the Tax Code, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of the proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds.

K. Limitation on Obligations with Variable Interest Rates. The City shall not issue Parity Obligations or Subordinate Obligations with a Variable Interest Rate which, at the time of issuance, are assigned a lower rating than the rating then assigned to the Bonds, as applicable, by Fitch or S&P, unless the written consent of such rating agency to a lower rating is obtained prior to issuance of such Superior Lien Gross Receipts Tax Obligations or Parity Gross Receipts Tax Obligations.

L. Notice of Qualified Exchange Agreements to Rating Agencies. The City shall not enter into a Qualified Exchange Agreement which is an Obligation or with respect to any Obligations without first providing notice of such Qualified Exchange Agreement to Fitch and S&P and without first receiving written confirmation from Fitch and S&P that entering into such Qualified Exchange Agreement, in and of itself, would not result in a reduction of the ratings then assigned to the Bonds, as applicable, by Fitch and S&P.

M. Continuing Disclosure Undertaking. Authorized Officers of the City are authorized to sign such documents with respect to the City's continuing disclosure obligations as are necessary or desirable to comply with the Continuing Disclosure Undertaking and requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

Section 25. Defeasance. When all principal and interest in connection with the Bonds hereby authorized have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the Bonds shall no longer be deemed to be outstanding within the meaning of this Ordinance. There shall be deemed to be such due payment as to any Bond when the Governing Body has placed in escrow and in trust with a commercial bank located within or without the State of New Mexico and exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may initially be invested, if applicable) to meet all requirements of principal and interest as the same become due to its maturity

or designated redemption date as of which the City shall have exercised or obligated itself to exercise its option to call the Bond. The Federal Securities shall become due prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the Governing Body and such bank at the time of the creation of the escrow or the Federal Securities shall be subject to the redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. Federal Securities within the meaning of this Section 25 shall include only direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America and which are not callable prior to maturity by the issuer of such obligations.

Section 26. Events of Default. Each of the following events is hereby declared an "event of default":

A. Nonpayment of Principal. If payment of the principal of any of the Bonds herein authorized to be issued shall not be made when the same become due and payable; or

B. Nonpayment of Interest. If payment of any installment of interest shall not be made when the same becomes due and payable; or

C. Incapable to Perform. If the City shall for any reason be rendered incapable of fulfilling its obligations (but not including any obligation of the City under any Qualified Exchange Agreement) hereunder; or

D. Default of any Provision. If the City shall default in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the Bonds or in this Ordinance on its part to be performed (other than defaults described in Subparagraphs A, B and C of this Section 26), and if such default shall continue for 60 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by the registered owners of 25% in principal amount of the Bonds then outstanding.

E. Bankruptcy or Insolvency of City. (1) The City shall (a) apply for or consent to

the appointment of or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the City or of all or a substantial part of its property, (b) commence a voluntary case under the Federal Bankruptcy Code, or (c) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, or reorganization, or (2) a proceeding or case shall be commenced, without application or consent of the City, in any court of competent jurisdiction seeking (a) the liquidation, reorganization, dissolution, winding-up or adjustment of debts of the City, (b) appointment of a trustee, receiver, custodian, liquidator or the like of the City or of all or a substantial part of its assets, or (c) similar relief in respect of the City under any law relating to bankruptcy, insolvency, reorganization, winding-up or adjustment of debts.

Section 27. Remedies of Defaults. Upon the happening and continuance of any of the events of default as provided in Section 26 of this Ordinance, then and in every case the registered owner or owners of not less than 25% in principal amount of the Bonds then outstanding, including but not limited to a trustee or trustees, may proceed against the City, its Governing Body, and its agents, officers and employees to protect and enforce the rights of any registered owner of Bonds under this Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for specific performance of any covenant or agreement contained herein or award or execution of any power herein granted for the enforcement of any power, legal or equitable remedy as such registered owner or owners may deem most effectual to protect and enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any registered owner, or to require the Governing Body of the City to act as if it were the trustee of an expressed trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all registered owners of the Bonds then outstanding. The failure of any such registered owner so to proceed shall not relieve the City or any of its officers, agents or employees of any liability for failure to perform any duty. Each right or privilege of any such registered owner (or trustee thereof)

is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any registered owner shall not be deemed a waiver of any other right or privilege thereof.

Section 28. Duties Upon Default. Upon the happening of any of the events of default as provided in Section 26 of this Ordinance, the City, in addition, will do and perform all proper acts on behalf of and for the registered owners of the Bonds to protect and preserve the security created for the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived from the Pledged Revenues, so long as any of the Bonds herein authorized, either as to principal or interest, are outstanding and unpaid, shall be paid into the proper fund and used for the purposes therein provided. In the event the City fails or refuses to proceed as in this Section 28 provided, the registered owner or registered owners of not less than 25% in principal amount of the Bonds then outstanding, after demand in writing, may proceed to protect and enforce the rights of the registered owners as hereinabove provided.

Section 29. Enforcement. Any registered owner of any one or more of the Bonds, may, either by law or in equity, by suit, action, mandamus or other appropriate proceedings in any court of competent jurisdiction enforce the payment of principal of, and interest on, any Bond on or after the date on which such payment is due, and may by suit, action, mandamus or other appropriate proceeding or proceedings enforce and compel the performance of such payment in accordance with the provisions of this Ordinance.

Section 30. Severability. If any Section, paragraph, clause or provision of this Ordinance shall be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 31. Repealer Clause. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be

construed to revive any ordinance or part of any ordinance heretofore repealed.

Section 32. Amendment.

A. Limitations upon Amendments. This Ordinance may be amended or supplemented by ordinance or resolution of the Governing Body without the consent of registered owners:

(1) To cure any ambiguity, or to cure, correct or supplement any defect or inconsistent provision contained in this Ordinance;

(2) To grant to the registered owners any additional rights, remedies, powers or authority that may lawfully be granted to them;

(3) To obtain or maintain a rating on the Bonds from any rating agency which amendment, in the judgment of Bond Counsel, does not materially adversely affect the registered owners of the Bonds;

(4) To achieve compliance with federal securities or tax laws, as applicable;

(5) To make any other changes in this Ordinance which, in the opinion of Bond Counsel, is not materially adverse to the registered owners; and

(6) To make any other changes in this Ordinance in connection with the execution of a Qualified Exchange Agreement, which changes do not adversely affect the rating(s) assigned to the Bonds by Fitch and S&P (if such rating agencies are then rating the Bonds) and do not adversely affect the registered owners.

B. Additional Amendments. Except as provided above, this Ordinance may only be amended or supplemented by ordinance adopted by the Governing Body in accordance with the laws of the State, without receipt by the City of any additional consideration, but with the written consent of the registered owners of a majority of the principal amount of the outstanding Bonds which are affected by the amendment or supplement (not including Bonds which are then owned by or for the account of the City); provided, however, that, without first obtaining the consent of all registered owners of the outstanding Bonds, no such ordinances shall have the effect of

permitting:

(1) An extension of the maturity of any Bond; or

(2) A reduction in the principal amount of or interest rate on any Bond; or

(3) A reduction of the principal amount of Bonds required for consent to such amendment or supplement.

C. Proof of Instruments. The fact and date of the execution of any instrument under the provisions of this Section may be proved by the certificate of any officer in any jurisdiction who by the laws of that jurisdiction is authorized to take acknowledgments of deeds within that jurisdiction that the person signing the instrument acknowledged before him the execution of that instrument, or may be proved by an affidavit of a witness to the execution sworn to before such officer.

D. Proof of Bonds. The principal amount and number of Bonds owned by any person executing such instrument and the date of holding that instrument may be proved by a certificate executed by a bank or trust company showing that on the date mentioned that person had on deposit with the bank or trust company the Bonds described in the certificate.

Section 33. Ordinance Irrepealable. After any of the Bonds herein authorized are issued, this Ordinance shall be and remain irrepealable until the Bonds and interest thereon shall be fully paid, canceled and discharged as therein provided, or there has been defeasance as provided in Section 25 of this Ordinance.

Section 34. Effective Date, General Summary for Publication. Upon due adoption of this Ordinance, the ordinance shall be recorded and preserved by the City Clerk, authenticated by the signature of the Mayor and City Clerk, and the seal of the City impressed hereon, and the title and general summary of the subject matter contained in this Ordinance (set out below) shall be published in a newspaper which maintains an office and is of general circulation in the City and this Ordinance shall be in full force and effect after its publication in accordance with law.

Pursuant to Section 3-17-5 NMSA 1978, as amended, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

CITY OF SANTA FE, NEW MEXICO

NOTICE IS HEREBY GIVEN of the title and of a general summary of the subject matter contained in an ordinance duly adopted and approved by the Governing Body of the City of Santa Fe on July 28, 2021. A complete copy of the ordinance is available for public inspection during the normal and regular business hours of the City Clerk in the office of the City Clerk, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico and is available online at santafe.primegov.com.

The title of the ordinance is:

AN ORDINANCE

AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO SUBORDINATE LIEN GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2021 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $14,745,000 FOR THE PURPOSE OF (1) REFUNDING, DISCHARGING AND PAYING THE CITY OF SANTA FE, NEW MEXICO SUBORDINATE LIEN GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2010B AND MATURING ON AND AFTER JUNE 1, 2022; (2) REFUNDING, DISCHARGING AND PAYING THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2012A AND MATURING ON AND AFTER JUNE 1, 2022; AND (3) PAYING COSTS OF ISSUANCE OF THE SERIES 2021 BONDS; CALLING FOR THE REDEMPTION OF THE OUTSTANDING SERIES 2010B BONDS AND SERIES 2012A BONDS; PROVIDING THAT THE BONDS WILL BE

PAYABLE AND COLLECTIBLE FROM CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; APPROVING THE SELECTION OF AN UNDERWRITER AND FORMS OF A PRELIMINARY OFFICIAL STATEMENT AND A PAYING AGENT REGISTAR AND DEPOSITARY AGENT AGREEMENT; DELEGATING AUTHORITY TO THE MAYOR OR, IN THE MAYOR'S ABSENCE, THE CITY MANAGER OR FINANCE DIRECTOR, TO APPROVE THE FINAL PRINCIPAL AMOUNT, INTEREST RATES AND OTHER DETAILS OF THE BONDS WITHIN THE PARAMETERS SET FORTH IN THIS AUTHORIZING ORDINANCE, AND TO EXECUTE AND DELIVER A BOND PURCHASE AGREEMENT FOR THE SALE OF THE BONDS TO THE UNDERWRITER; PROVIDING FOR THE COLLECTION OF CERTAIN GROSS RECEIPTS TAX REVENUES; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND RELATED MATTERS.

A general summary of the subject matter contained in such ordinance is set forth in the title.

COMPLETE COPIES OF THE ORDINANCE ARE ON FILE IN THE OFFICE OF THE CITY CLERK AT THE CITY HALL, 200 LINCOLN AVENUE, SANTA FE, NEW MEXICO, ARE AVAILABLE ONLINE AT SANTAFE.PRIMEGOV.COM, AND ARE AVAILABLE FOR INSPECTION AND/OR PURCHASE DURING REGULAR OFFICE HOURS. THIS NOTICE ALSO CONSTITUTES COMPLIANCE WITH SECTION 3-17-5 AND SECTIONS 6-14-4 THROUGH 6-14-7, NMSA 1978.

WITNESS my hand and the seal of the City on the ___ day of _____, 2021.

CITY OF SANTA FE

(SEAL)

_____

Kristine Mihelcic, City Clerk

(End of Form of Ordinance for Publication)

PASSED, APPROVED, AND ADOPTED this ___ day of _____, 2021

GOVERNING BODY OF THE

CITY OF SANTA FE

(SEAL)

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

KRISTINE MIHELCIC

APPROVED AS TO FORM:

Peter Franklin (Jul 1, 2021 17:15 MDT)

PETER FRANKLIN – MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A. AS BOND COUNSEL

After discussion, Councilor _____ moved for approval, with Councilor _____ seconding the motion. Bill No. 2021-___ passed upon the following roll call vote:

Those voting AYE: Councilor: _____

Councilor: _____

Councilor: _____

Councilor: _____

Councilor: _____

Councilor: _____

Councilor: _____

Councilor: _____

Those voting NAY: _____

Those not present: _____

The presiding officer thereupon declared that at least three-fourths of all the members of the Governing Body having voted in favor of adoption of Bill No. 2021-__ the motion was carried and Ordinance No. 2021-__ was duly passed and adopted.

After consideration by the Governing Body of other business the meeting was duly adjourned.

GOVERNING BODY OF THE

CITY OF SANTA FE, NEW MEXICO

(SEAL)

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

KRISTINE MIHELCIC, CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

_____

PETER FRANKLIN – MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A. AS BOND COUNSEL

FIR No. 3340

FISCAL IMPACT REPORT

General Information:

(Check) Bill: X Resolution: _____

Short Title(s): GRT Refunding Revenue Bond Series 2021

Sponsor(s): Mayor Webber and Councilor Abeyta

Reviewing Department(s): Finance

Staff Completing FIR: Bradley Fluetsch, CFA Date: June 25, 2021 Phone: 955-6885

Reviewed by City Attorney: Peter Franklin (Jul 1, 2021 17:15 MDT) Date: Jul 1, 2021

Reviewed by Finance Director: Alexis Lotero (Jul 2, 2021 16:46 MDT) Date: Jul 2, 2021

Summary:
The 2012A Senior Lien GRT Revenue Bond and the 2010B Subordinate Lien GRT Revenue Bond became eligible to refund and according to the City's Debt Policy, it is permissible according to Section IX. C, having met all the criteria.

Departments Affected:
Finance

Consequences of Not Enacting Legislation:
There are several consequences, most notably the City would forego saving $1.35 million in interest expense. Next and more importantly, the perception of municipal bond investors and other market participants may be affected, they would wonder why the City has not refunded these bonds and save the money.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
No conflict, duplication, companionship or relationship to any other legislation.

Performance and Administrative Implications:
No performance implications and the administrative ones are minimal.

Fiscal Implications:
All net savings to the City of an estimated $1.35 million over five years

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 22	FYE 23	FYE 24	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$-340,000	$-335,000	$-335,000	N	NR	515, 100	
Contractual/ Professional Services	$30,000	$	$				
Operating	$	$	$				$
Total:	$-310,000	$-335,000	$-335,000				$-980,000

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

Expenditure Narrative:

There will be a fee from both the Municipal Advisor and Bond Counsel in Professional Services, but in capital outlay there are negative expenses (i.e. savings)

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:

There are no revenues in this transaction.

Updated 6.16. 21

CITY OF SANTA FE, NEW MEXICO
GROSS RECEIPTS TAX REFUNDING REVENUE BONDS
SERIES 2021
FINANCING SCHEDULE

JUNE 2021						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

JULY 2021						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

AUGUST 2021						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SEPTEMBER 2021						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

OCTOBER 2010						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24/31	25	26	27	28	29	30

NOVEMBER 2021						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

Council Meeting Dates 5:00/7:00 p.m.

Finance Committee Meeting Dates 5:00 p.m.

Public Works

DATE	ACTION	RESPONSIBLE PARTIES
Thursday, June 3, 2021	Distribute Financing Schedule	Modrall Sperling

DATE	ACTION	RESPONSIBLE PARTIES
Tuesday, June 8, 2021	Distribute Draft Bond Parameters Ordinance for first reading on June 30, 2021	Modrall Sperling
Tuesday, June 15, 2021	Distribute initial draft of Preliminary Official Statement	Modrall Sperling
Wednesday, June 16, 2021	Draft Bond Parameters Ordinance, Preliminary Official Statement, and Registrar/Paying Agent Agreement delivered to City for Public Works Committee and Finance Committee Agenda Packets (Introduction on June 30, First Reading of Ordinance on July 14, Finance Committee meeting on July 19, Public Works Committee on July 26)	City Finance Hilltop Securities Modrall Sperling
Friday, June 18, 2021	Draft Request for Underwriters' Qualifications distributed to City Finance	Hilltop Securities
Tuesday, June 22, 2021	Request for Underwriters' Qualifications circulated to underwriters	City Finance
Wednesday, June 30, 2021	Introduction of Bond Parameters Ordinance	City Finance Hilltop Securities Modrall Sperling
Thursday, July 1, 2021	Underwriter responses to RFQ due	Underwriters
Tuesday, July 6, 2021	City Finance recommendation of underwriter selection delivered to Finance Committee (for July 19 Finance Committee Meeting)	City Finance Hilltop Securities Modrall Sperling

DATE	ACTION	RESPONSIBLE PARTIES
Wednesday, July 14, 2021	First reading of Bond Parameters Ordinance by City Council	City Hilltop Securities Modrall Sperling
Thursday, July 15, 2021	Coordinate Publication of Notice of Public Hearing and Intent to Adopt Bond Parameters Ordinance (August 11, 2021 Council Meeting) to the *Santa Fe New Mexican* for publication by or before July 26, 2021	City Clerk Modrall Sperling
Monday, July 19, 2021	Finance Committee Meeting; review of recommended selection of underwriter(s) and draft Bond Parameters Ordinance, Preliminary Official Statement, and Registrar/Paying Agent Agreement	City Finance Hilltop Securities Modrall Sperling
Monday, July 26, 2021	Notice of August 11, 2021 Public Hearing and Intent to Adopt Bond Parameters Ordinance published in the *Santa Fe New Mexican*	Newspaper
Monday, July 26, 2021	Public Works Committee Meeting; review of draft Bond Parameters Ordinance, Preliminary Official Statement, and Registrar/Paying Agent Agreement	City Finance Hilltop Securities Modrall Sperling
Wednesday, July 28, 2021	Final Bond Parameters Resolution, Preliminary Official Statement, Disclosure Responsibilities Memorandum and Registrar/Paying Agent Agreement delivered to City for Council Agenda Packets (July 28 Council Meeting)	Modrall Sperling City Finance
Monday, August 9, 2021	Draft Preliminary Official Statement distributed to Rating Agencies	Hilltop Securities Modrall Sperling

DATE	ACTION	RESPONSIBLE PARTIES
Wednesday, August 11, 2021	City Council adopts Bond Parameters Ordinance* *Selection of underwriters and delegation of final terms authority to be included in Bond Parameters Ordinance	City Hilltop Securities Modrall Sperling
Thursday, August 12, 2021	Submit Notice of Adoption of Bond Parameters Ordinance for publication in the August 18, 2021 edition of the *Santa Fe New Mexican*	Modrall Sperling
Week of August 16 and 23, 2021	Calls with Rating Agencies	Hilltop Securities City Finance Modrall Sperling
Wednesday, August 18, 2021	Notice of Adoption of Bond Parameters Ordinance for publication in the *Santa Fe New Mexican*	Newspaper
Friday, August 30, 2021	Submit request for approval of parameters for refunding transaction to the Department of Finance and Administration pursuant to 2.61.8.9 NMAC	Modrall Sperling Hilltop Securities
Tuesday, August 24, 2021	Transmit Conditional Notice of Redemption of Bonds to BOKF, NA, as Registrar	Modrall Sperling
Friday, August 27, 2021	Post Conditional Notice of Redemption on EMMA	BOKF, NA, as Registrar
Friday, September 10, 2021	Ratings received	Hilltop Securities

DATE	ACTION	RESPONSIBLE PARTIES
Friday, September 10, 2021	Final comments on Preliminary Official Statement due	Underwriter(s) City Finance Hilltop Securities Modrall Sperling
Monday, September 13, 2021	Post Preliminary Official Statement on EMMA	Hilltop Securities Underwriters Modrall Sperling
Friday, September 17, 2021	30-day limitation of actions period expires	
Tuesday, September 21, 2021	Negotiated Sale of Bonds; Execution and Delivery of Bond Purchase Agreement and Pricing Certificate	Hilltop Securities Underwriters Mayor City Finance Director
Thursday, September 23, 2021	Circulate draft Official Statement	Modrall Sperling
Friday, September 24, 2021	Report refunding results to Department of Finance and Administration	Hilltop Securities
Monday, September 27, 2021	Comments due on draft Official Statement	Underwriters
Wednesday, September 29, 2021	Mayor or Finance Director reports on final terms of Bonds and presents Pricing Certificate at City Council Meeting (informational purposes only)	Mayor or Finance Director
Thursday, September 30, 2021	Deadline for transmitting Official Statement to Underwriters	Modrall Sperling

DATE	ACTION	RESPONSIBLE PARTIES
Monday, October 4, 2021	Circulate draft Closing Documents	Modrall Sperling
Week of October 11, 2021 (exact date TBD)	Meet with City Officials to execute Closing Documents	Modrall Sperling City Finance Mayor, City Manager, City Clerk, City Attorney
Friday, October 15, 2021	Bonds sent to BOKF, NA for FAST Closing	Modrall Sperling
Monday, October 18, 2021	Bonds delivered to BOKF, NA	FedEx
Thursday, October 21, 2021	Closing; redemption of refunded bonds	City Finance BOKF, NA Hilltop Securities Modrall Sperling

OFFICIAL STATEMENT

NOTICE

**$14,745,000*
CITY OF SANTA FE, NEW MEXICO
Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds
Series 2021**

Preliminary Official Statement, subject to completion,
dated , 2021

The Preliminary Official Statement, dated _____, 2021 (the "Preliminary Official Statement"), relating to the above-described bonds (the "Bonds") of the City of Santa Fe, New Mexico (the "City"), has been posted as a matter of convenience. The posted version of the Preliminary Official Statement has been formatted in Adobe Portable Document Format. Although this format should replicate the Preliminary Official Statement available from the City, appearance may vary for a number of reasons, including electronic communication difficulties or particular user software or hardware. Using software other than Adobe Acrobat may cause the Preliminary Official Statement that you view or print to differ in appearance from the Preliminary Official Statement.

The Preliminary Official Statement and the information contained therein are subject to completion or amendment or other change without notice. Under no circumstances shall the Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Bonds in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

For purposes of Rule 15c2-12 promulgated by the United States Securities and Exchange Commission, the Preliminary Official Statement alone, and no other document or information on the internet, constitutes the "Official Statement" that the City has "deemed final" as of its date in respect of the Bonds, except for certain information permitted by Rule 15c2-12 to be omitted therefrom.

No person has been authorized to give any information or to make any representations other than those contained in the Preliminary Official Statement in connection with the offer and sale of the Bonds and, if given or made, such information or representations must not be relied upon as having been authorized. The information and expressions of opinion in the Preliminary Official Statement are subject to change without notice and neither the delivery of the Official Statement nor any sale made thereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City since the date of the Preliminary Official Statement.

By choosing to proceed and view the electronic version of the Preliminary Official Statement, you acknowledge that you have read and understood this Notice.

Preliminary Official Statement dated _____, 2021

* Preliminary, subject to change.

This Preliminary Official Statement and the information contained herein are subject to completion and amendment. Under no circumstances shall the Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

PRELIMINARY OFFICIAL STATEMENT DATED _____, 2021

NEW ISSUE

RATINGS: S&P Global Ratings: ___
Fitch Ratings: ___

BOOK-ENTRY ONLY

In the opinion of Modrall, Sperling, Roehl, Harris & Sisk, P.A., Bond Counsel, under existing laws, regulations, rulings and judicial decisions, and assuming compliance with certain covenants described in "TAX EXEMPTION" herein, interest on the Bonds (a) is excludable from the gross income of the recipients thereof for federal income tax purposes under Section 103 of the Internal Revenue Code, as amended; and (b) is not an item of tax preference under Section 57 of the Internal Revenue Code of 1986, as amended, for purposes of the federal alternative minimum tax imposed on individuals. Bond Counsel is also of the opinion, based on existing laws of the State of New Mexico as enacted and construed, that the Bonds and income from the Bonds are exempt from all taxation by the State of New Mexico or any political subdivision thereof. For a more complete description of such opinion of Bond Counsel and a description of certain provisions of the Internal Revenue Code of 1986, as amended, which may affect the federal tax treatment of interest on the Bonds for certain registered owners of such bonds, see "TAX EXEMPTION" herein.

$14,745,000*
City of Santa Fe, New Mexico
Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds
Series 2021

Dated: Date of Delivery

Due: June 1, as shown on the inside front cover

The $14,745,000* City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021 (the "Bonds") are being issued by the City of Santa Fe, New Mexico (the "City") to provide funds for the Refunding Project. See the "REFUNDING PROJECT" and "SOURCES AND USES OF FUNDS" herein. The Bonds will bear interest from the date of delivery, at the rates set forth on the inside front cover hereof, payable semiannually on June 1 and December 1 of each year until maturity or prior redemption, commencing December 1, 2021, and will mature on June 1 of each of the years as set forth on the inside front cover hereof. Capitalized terms not defined on this front cover are as defined herein.

The Bonds are issuable as fully registered bonds in denominations of $5,000 or any integral multiple thereof. The Bonds will be issued pursuant to a book-entry only system and will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). Underwriters of the Bonds ("Beneficial Owners") will not receive physical delivery of bond certificates representing their beneficial ownership interests. So long as DTC or its nominee is the owner of the Bonds, principal of and interest on the Bonds will be paid by the Paying Agent to DTC or its nominee, which will in turn remit such payment to its Direct Participants for subsequent disbursement by the Direct Participants and the Indirect Participants to the Beneficial Owners. See "DESCRIPTION OF THE BONDS—Book-Entry Only System."

The Bonds, together with the interest accruing thereon, will be payable solely from Pledged Revenues. Pledged Revenues consist of: (i) the State-Shared Gross Receipts Tax Revenues; (ii) the One-Half Percent Municipal Gross Receipts Tax Revenues; (iii) the Infrastructure Gross Receipts Tax Revenues; (iv) the portion of the gross receipts tax distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues, and Infrastructure Gross Receipts Tax Revenues that would have been remitted to the City but for the deductions provided by Section 7-9-92 and 7-9-93 NMSA 1978 and any similar distributions made to the City in lieu of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues and Infrastructure Gross Receipts Tax Revenues pursuant to law (collectively, the "Pledged Revenues" or "Pledged Gross Receipts Tax Revenues"). The lien on the Pledged Gross Receipts Tax Revenues will be: (A) on parity with the lien on the Pledged Revenues securing the City's 2013B Bonds, 2016C Bonds, 2016D Bonds, the 2017 Taxable Bonds, the 2018 Gas Tax/Sub. Lien GRT Bonds, the 2019 Finance Authority Refunding Loan and the 2019 Finance Authority Parking Improvements Loan, and (B) subordinate to the lien of the Pledged Revenues securing the City's 2013A Bonds, 2014 Bonds, 2016A Bonds, 2016B Bonds, 2018A Bonds and any other Superior Lien Gross Receipts Tax Obligations; The Bonds are subject to optional redemption prior to maturity as more fully described herein. See "DESCRIPTION OF THE BONDS—Optional Redemption of Bonds" herein.

The registered owners of the Bonds may not look to any general or other fund of the City for the payment of the principal of and interest on the Bonds except for the Pledged Revenues. The Bonds do not constitute an indebtedness of the City within the meaning of any constitutional, charter or statutory provision or limitation, nor will they be considered or held to be general obligations of the City. Neither the full faith and credit of the City nor the taxing power of the City, the State or any political subdivision or public agency thereof, other than the City to the extent of the Pledged Revenues, are pledged to the payment of the principal of and interest on the Bonds. No Owner has the right to compel the exercise of the taxing power of the City or the forfeiture of any of its property in connection with any default under the Bond Ordinance.

The purchase and ownership of the Bonds involve investment risk and may not be suitable for all investors. This cover page is not intended to be a summary of the terms of, or the security for, the Bonds. Investors are advised to read this Official Statement in its entirety to obtain information essential to the making of an informed investment decision.

The Bonds are offered when, as and if issued and received by the underwriters set forth below (the "Underwriters") subject to the approval of validity by Modrall, Sperling, Roehl, Harris & Sisk, P.A., Albuquerque, New Mexico, Bond Counsel. Modrall, Sperling, Roehl, Harris & Sisk, P.A., has also acted as special counsel to the City in connection with the preparation of this Official Statement. Certain legal matters will be passed on for the City by Erin McSherry, Esq., City Attorney. Certain legal matters will passed upon for the Underwriters by _____. It is anticipated that the Bonds will be available for delivery through the facilities of DTC on or about October 21, 2021.

Dated: _____, 2021

* Preliminary, subject to change.

[UNDERWRITER LOGO]

$14,745,000[*]
City of Santa Fe, New Mexico
Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds
Series 2021

MATURITY SCHEDULE

Year (June 1)	Principal[*]	Interest	Yield	Price	CUSIP[(1)]
2022					
2023					
2024					
2025					
2026					
2027					
2028					
2029					
2030					
2031					
2032					
2033					
2034					
2035					
2036					
2037					
2038					
2039					
2040					
2041					

[*] Preliminary, subject to change.

[(1)] *CUSIP® is a registered trademark of the American Bankers Association. CUSIP Global Services (CGS) is managed on behalf of the American Bankers Association by S&P Global Market Intelligence. Copyright© 2018 CUSIP Global Services. All rights reserved. CUSIP® data herein is provided by CUSIP Global Services. This data is not intended to create a database and does not serve in any way as a substitute for the CGS database. CUSIP® numbers are provided for convenience of reference only. None of the City, the Underwriters or their agents or counsel assumes responsibility for the accuracy of such numbers.*

CITY OF SANTA FE, NEW MEXICO

200 Lincoln Avenue
Santa Fe, New Mexico 87501
(505) 955-6500

MAYOR

Alan Webber

CITY COUNCIL

Signe I. Lindell, Mayor Pro Tem
Renee Villarreal, Councilor
Michael Garcia, Councilor
Carol Romero-Wirth, Councilor
Chris Rivera, Councilor
Roman "Tiger" Abeyta, Councilor
Jamie Cassutt-Sanchez, Councilor
JoAnne Vigil Coppler, Councilor

CITY OFFICIALS

Jarel Lapan Hill, City Manager
Kristine Mihelcic, City Clerk
Mary T. McCoy, Director of Finance
Erin McSherry, City Attorney

BOND AND DISCLOSURE COUNSEL

Modrall, Sperling, Roehl, Harris & Sisk, P.A.

PAYING AGENT AND REGISTRAR

BOKF, NA

FINANCIAL ADVISOR

Hilltop Securities Inc.

UNDERWRITER[S]
[to be inserted]

REGARDING THIS OFFICIAL STATEMENT

No dealer, salesman or other person has been authorized to give any information or to make any statements or representations, other than those contained in this Official Statement, in connection with the offering of the Bonds, and, if given or made, such other information, statements or representations must not be relied upon as having been authorized by the City or Underwriters. This Official Statement does not constitute an offer or solicitation in any jurisdiction in which such offer or solicitation is not authorized, or in which any person making such offer or solicitation is not qualified to do so, or to any person to whom it is unlawful to make such offer or solicitation.

The information contained in this Official Statement has been furnished by the City or obtained from other sources which are believed by the City to be reliable. The information in this Official Statement is subject to change without notice and neither the delivery of this Official Statement nor any sale hereunder shall, under any circumstances, create any implication that there has been no change since the date of this Official Statement.

The Underwriters have reviewed the information in this Official Statement pursuant to their responsibilities to investors under the federal securities laws, but the Underwriters do not guarantee the accuracy or completeness of such information.

The Bonds have not been registered under the Securities Act of 1933 in reliance upon exemptions contained in such Act. The registration and qualification of the Bonds in accordance with applicable provisions of the securities laws of the states in which the Bonds have been registered or qualified and the exemption from registration or qualification in other states cannot be regarded as a recommendation thereof. Neither the United States Securities and Exchange Commission nor any other federal, state, municipal or other governmental entity, nor any agency or department thereof, has passed upon the merits of the Bonds or the accuracy or completeness of this Official Statement. Any representation to the contrary may be a criminal offense.

This Official Statement contains statements relating to the City's future financial plans, receipt of future revenues and other matters that are "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995. When used in this Official Statement, the words "estimate," "intend," "anticipate," "expect" and similar expressions are intended to identify forward-looking statements. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof.

THE PRICES AT WHICH THE BONDS ARE OFFERED TO THE PUBLIC BY THE UNDERWRITERS (AND THE YIELDS RESULTING THEREFROM) MAY VARY FROM THE INITIAL PUBLIC OFFERING PRICES APPEARING ON THE INSIDE FRONT COVER PAGE HEREOF. IN ADDITION, THE UNDERWRITERS MAY ALLOW CONCESSIONS OR DISCOUNTS FROM SUCH INITIAL PUBLIC OFFERING PRICES TO DEALERS AND OTHERS. IN CONNECTION WITH THE OFFERING OF THE BONDS, THE PURCHASHERS MAY EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

Copies of the ordinance authorizing the issuance of the Bonds are available upon request at the office of the City Clerk, 200 Lincoln Avenue, Room 210, Santa Fe, New Mexico 87504, (505) 955-6521.

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CITY OF SANTA FE, NEW MEXICO
SUBORDINATE LIEN GROSS RECEIPTS TAX REFUNDING REVENUE BONDS
SERIES 2021

SUMMARY OF INFORMATION

There follows a summary of certain provisions discussed in this Official Statement. SUCH SUMMARY DOES NOT PURPORT TO BE COMPREHENSIVE OR DEFINITIVE AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE COMPLETE OFFICIAL STATEMENT. This Summary is only a brief statement and a full review of the entire Official Statement should be made by potential investors. Capitalized terms used but not otherwise defined in this "SUMMARY OF INFORMATION" will have the meanings given such terms in "APPENDIX C—DEFINITIONS OF CERTAIN TERMS IN THE BOND ORDINANCE."

Dated:	The date of initial delivery to the Underwriters, which is expected to be on or about October 21, 2021.
Registration:	The City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021 (the "Bonds") will be issued as fully registered bonds in denominations of $5,000 and integral multiples thereof. The Registrar is BOKF, NA.
Principal Payment:	The Bonds will mature on June 1 of each of the years set forth on the inside front cover page of this Official Statement.
Interest Payment:	Interest will be payable semiannually on June 1 and December 1, commencing on December 1, 2021.
Security:	The Bonds are special limited obligations, payable solely from Pledged Revenues. "Pledged Revenues" consist of Pledged Gross Receipts Tax Revenues. Pledged Gross Receipts Tax Revenues consist of (i) the State-Shared Gross Receipts Tax Revenues; (ii) the One-Half Percent Municipal Gross Receipts Tax Revenues; (iii) the Infrastructure Gross Receipts Tax Revenues; and (iv) the portion of the gross receipts tax distribution to the City made pursuant to Section 7-1-6.46, NMSA, which represents the amount of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues, and Infrastructure Gross Receipts Tax Revenues that would have been remitted to the City but for the deductions provided by Sections 7-9-92 and 7-9-93, NMSA, and any similar distributions made to the City in lieu of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues, and Infrastructure Gross Receipts Tax Revenues pursuant to law (see "SPECIAL FACTORS RELATING TO THE BONDS—Legislative Changes" herein). See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS" herein.

Superior and Parity Subordinate Lien Gross Receipts Tax Obligations:	The lien of the Bonds on Pledged Gross Receipts Tax Revenues will be on parity with the lien thereon of the outstanding 2012B Bonds, the 2013B Bonds, the 2016C Bonds, the 2016D Bonds, the 2017 Taxable Bonds, the 2018 Gas Tax/Sub. Lien GRT Bonds, the 2019 Finance Authority Refunding Loan, the 2019 Finance Authority Parking Improvements Loan, and any other Subordinate Lien Gross Receipts Tax Obligations issued subsequent to the issuance of the Bonds, and will be subordinate to the lien on Pledged Gross Receipts Tax Revenues of the outstanding 2013A Bonds, 2014 Bonds, 2016A Bonds, 2016B Bonds, 2018A Bonds and any other Parity Superior Lien Gross Receipts Tax Obligations issued subsequent to the issuance of the Bonds, as more fully described herein. SEE "SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDINANCE—Additional Superior Lien Gross Receipts Tax Obligations and Parity Subordinate Gross Receipts Tax Obligations" herein.
Special Obligations:	THE BONDS ARE SPECIAL LIMITED OBLIGATIONS, PAYABLE SOLELY FROM PLEDGED REVENUES. THE PRINCIPAL OF AND INTEREST ON THE BONDS WILL BE PAYABLE FROM PLEDGED REVENUES, AND WILL NOT BE PAYABLE FROM ANY FUNDS OF THE CITY EXCEPT THE DESIGNATED SPECIAL FUNDS PLEDGED TO THE PAYMENT OF THE BONDS. THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL, CHARTER OR STATUTORY PROVISION OR LIMITATION, NOR WILL THEY BE CONSIDERED OR HELD TO BE GENERAL OBLIGATIONS OF THE CITY. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION OR PUBLIC AGENCY THEREOF, OTHER THAN THE CITY TO THE EXTENT OF THE PLEDGED REVENUES, ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS. NO OWNER HAS THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE CITY OR THE FORFEITURE OF ANY OF ITS PROPERTY IN CONNECTION WITH ANY DEFAULT UNDER THE BOND ORDINANCE.
Prior Redemption:	The Series Bonds maturing on and after June 1, 20___ are subject to optional redemption prior to maturity in one or more units of principal of $5,000 on and after June 1, 20___. See "DESCRIPTION OF THE BONDS – Optional Redemption of Bonds."
Additional Bonds:	Additional Superior Lien Gross Receipts Tax Obligations may be issued with a lien on the Pledged Gross Receipts Tax Revenues superior and prior to the lien thereon of the Bonds. Additional Subordinate Lien Gross Receipts Tax Obligations may be issued with a lien on the Pledged Gross Receipts Tax Revenues on parity with the lien thereon of the Bonds.

	See "SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDINANCE—Additional Superior Lien Gross Receipts Tax Obligations and Parity Subordinate Lien Gross Receipts Tax Obligations" herein.
Bond and Disclosure Counsel:	Modrall, Sperling, Roehl, Harris & Sisk, P.A., Albuquerque, New Mexico
Financial Advisor:	Hilltop Securities Inc., Dallas, Texas
Paying Agent/Registrar:	BOKF, NA, Albuquerque, New Mexico
Underwriters:	_____
Special Factors:	Investors and prospective investors should give particular attention to various factors, including that the Bonds are limited, Superior Lien Gross Receipts Tax Obligations secured by a lien on (i) the Pledged Gross Receipts Tax Revenues, and that additional Gross Receipts Tax obligations (including Superior Lien Gross Receipts Tax Obligations and Parity Subordinate Lien Gross Receipts Tax Obligations) may be issued, secured by and paid from the Pledged Gross Receipts Tax Revenues. See "SPECIAL FACTORS RELATING TO THE BONDS", "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS— Pledged Gross Receipts Tax Revenues" and "SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDINANCE—Additional Superior Lien Gross Receipts Tax Obligations and Parity Subordinate Gross Receipts Tax Obligations" herein.

OFFICIAL STATEMENT

$14,745,000*
CITY OF SANTA FE, NEW MEXICO
SUBORDINATE LIEN GROSS RECEIPTS TAX REFUNDING REVENUE BONDS
SERIES 2021

INTRODUCTION

This Official Statement, which includes the cover page and the appendices hereto, sets forth certain information in connection with the offering of $14,745,000* aggregate principal amount of City of Santa Fe, New Mexico, Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021 (the "Bonds") to be issued by the City of Santa Fe, Santa Fe County, New Mexico (the "City," the "County" and the "State," respectively), pursuant to Ordinance No. 2021-__, adopted on July 28, 2021, as supplemented by the Pricing Certificate dated the date of this Official Statement (together, the "Bond Ordinance").

The Bonds are payable and collectible solely from Pledged Revenues which consist of (i) the revenues distributed to the City monthly by the Department pursuant to Sections 7-1-6 and 7-1-6.4 NMSA 1978, at the rate authorized (currently 1.225% of the gross receipts of persons doing business within the City) from the proceeds of a state-wide gross receipts tax imposed pursuant to Chapter 7, Article 9, NMSA 1978 (the "State-Shared Gross Receipts Tax Revenues"); (ii) the revenues received by the City pursuant to the Sections 7-19D-9 through 7-19D-12 NMSA 1978 and Ordinance No. 1981-45 of the City, which impose a 0.50% tax on the gross receipts of persons doing business within the City (the "One-Half Percent Municipal Gross Receipts Tax Revenues"); (iii) the revenues received by the City pursuant to Section 7-19D-11 NMSA 1978 and Ordinance No. 1993-21 of the City which impose a 0.0625% tax on the gross receipts of persons doing business within the City (the "Infrastructure Gross Receipts Tax Revenues"); (iv) the portion of the gross receipts tax distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues, and Pledged Infrastructure Gross Receipts Tax Revenues that would have been remitted to the City but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978, and any similar distributions made to the City in lieu of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues and Infrastructure Gross Receipts Tax Revenues pursuant to law, and (v) any other gross receipts tax revenues received by the City, whether from distribution by the State or pursuant to gross receipts taxes imposed by the City and hereafter pledged to the payment of the Bonds by an affirmative act of the City Council of the City. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS—Pledged Gross Receipts Tax Revenues".

The Bonds are special, limited obligations of the City payable from and secured solely by the Pledged Revenues. The Bonds will be issued with a lien on the Pledged Gross Receipts Tax Revenues on parity with the lien thereon of outstanding Parity Subordinate Lien Gross Receipts Tax Obligations, and subordinate to the lien thereon of outstanding Superior Lien Gross Receipts Tax Obligations. See "SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDINANCE—Additional Superior Lien Gross Receipts Tax Obligations and Parity Subordinate Lien Gross Receipts Tax Obligations" herein.

The City has previously issued and there are currently outstanding the following gross receipts tax revenue bonds secured by a first lien on the Pledged Gross Receipts Tax Revenues on parity with the lien thereon, following issuance, of the Bonds (the "Outstanding Superior Lien Gross Receipts Tax Obligations"): (a) Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012A (the

* Preliminary, subject to change.

"2012A Bonds") in an original aggregate principal amount of $32,725,000 of which $10,735,000 of such 2012A Bonds remain outstanding, which will be refunded, redeemed and paid with proceeds of the Bonds, (b) Gross Receipts Tax Improvement Revenue Bonds, Series 2014 (the "2014 Bonds") in an original aggregate principal amount of $15,460,000, of which $14,615,000 of such 2014 Bonds remain outstanding, (c) Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016A (the "2016A Bonds) in an original aggregate principal amount of $6,700,000 of which $2,140,000 of such 2016A Bonds remain outstanding, (d) Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016B (the "2016B Bonds) in an original aggregate principal amount of $21,900,000, of which $10,225,000 of such 2016B Bonds remain outstanding, and (e) Senior Lien Gross Receipts Tax Improvement Revenue Bonds, Series 2018A (the "2018A Bonds") in an original aggregate principal amount of $20,000,000, of which $18,975,000 of such 2018A Bonds remain outstanding. The City may issue additional Parity Superior Lien` Gross Receipts Tax Obligations with a lien on the Pledged Gross Receipts Tax Revenues on parity with the lien thereon of the 2018A Bonds (together with the Outstanding Parity Superior Lien Gross Receipts Tax Obligations, the "Superior Lien Gross Receipts Tax Obligations").

The City has previously issued and there are currently outstanding the following gross receipts tax obligations secured by a lien on the Pledged Gross Receipts Tax Revenues subordinate to the lien thereon of the Superior Lien Gross Receipts Tax Obligations (the "Outstanding Subordinate Lien Gross Receipts Tax Obligations"): (1) Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2010B (the "2010B Bonds") in an aggregate principal amount of $10,490,000, of which $4,860,000 of such 2010B Bonds remains outstanding, which will be refunded, redeemed and paid with proceeds of the Bonds, (2) Gross Receipts Tax (Subordinate Lien)/Wastewater Systems Refunding Revenue Bonds, Series 2012B[(1)] (the "2012B Bonds") in an original aggregate principal amount of $14,280,000, of which $1,960,000 of such 2012B Bonds remain outstanding, (3) Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2013B (the "2013B Bonds") in an original aggregate principal amount of $13,780,000, of which $11,245,000 of such 2013B Bonds remain outstanding, (4) Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016C (the "2016C Bonds") in an original aggregate principal amount of $9,480,000, of which $2,455,000 of such 2016C Bonds remain outstanding, (5) Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016D (the "2016D Bonds") in an original aggregate principal amount of $2,020,000, of which $1,690,000 of such 2016D Bonds remain outstanding, (6) Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2017 (the "2017 Taxable Bonds") in an original aggregate principal amount of $4,530,000 of which $3,805,000 of such 2017 Taxable Bonds remain outstanding, (8) Gasoline Tax/Subordinate Lien Gross Receipts Tax Improvement Revenue Bonds, Series 2018 (the "2018 GasTax/Sub.Lien GRT Bonds") in an original aggregate principal amount of $10,290,000, of which $8,660,000 of such 2018 Gas Tax/Sub. Lien GRT Bonds remain outstanding; (9) 2019 Taxable Subordinate Lien Finance Authority Refunding Loan ("2019 Refunding Loan") in an original principal amount of $23,705,000, of which $22,810,000 of such 2019 Refunding Loan principal remains outstanding; and (10) 2019 Subordinate Lien Finance Authority Parking Improvements Loan (the "2019 Parking Improvements Loan") in an original principal amount of $1,575,000, of which $1,380,000 of such 2019 Parking Improvements Loan principal remains outstanding. The City may issue additional Subordinate Lien Gross Receipts Tax Obligations with a lien on the Pledged Gross Receipts Tax Revenues subordinate to the lien thereon of the Bonds (together with the Outstanding Subordinate Lien Gross Receipts Tax Obligations, the "Subordinate Lien Gross Receipts Tax Obligations"). See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS" and "SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDINANCE—Additional Parity Superior Lien Gross Receipts Tax Obligations and Subordinate Lien Gross Receipts Tax Obligations."

THE BONDS ARE SPECIAL LIMITED OBLIGATIONS, PAYABLE SOLELY FROM PLEDGED REVENUES. THE PRINCIPAL OF AND INTEREST ON THE BONDS WILL BE

[(1)] The Series 2012B Bonds are, in addition to the Pledged Gross Receipts Tax Revenues, secured by a subordinate lien on certain Environmental Services Gross Receipts Tax Revenues, and a first (but not an exclusive first) lien on Wastewater System Revenues, which are not included in the Pledged Revenues securing the Bonds.

PAYABLE SOLELY FROM PLEDGED REVENUES AND WILL NOT BE PAYABLE FROM ANY FUNDS OF THE CITY EXCEPT THE DESIGNATED SPECIAL FUNDS PLEDGED TO THE PAYMENT OF THE BONDS. THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL, CHARTER OR STATUTORY PROVISION OR LIMITATION, NOR WILL THEY BE CONSIDERED OR HELD TO BE GENERAL OBLIGATIONS OF THE CITY. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION OR PUBLIC AGENCY THEREOF, OTHER THAN THE CITY TO THE EXTENT OF THE PLEDGED REVENUES, ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS. NO OWNER HAS THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE CITY OR THE FORFEITURE OF ANY OF ITS PROPERTY IN CONNECTION WITH ANY DEFAULT UNDER THE BOND ORDINANCE.

The descriptions and summaries of various documents hereinafter set forth do not purport to be comprehensive or definitive, and reference is made to each document for the complete details of all terms and conditions. All statements herein are qualified in their entirety by reference to each document. All capitalized terms used in this Official Statement and not otherwise defined herein have the same meanings as in the Bond Ordinance.

SPECIAL FACTORS RELATING TO THE BONDS

Each prospective investor of the Bonds is encouraged to read this Official Statement and to give particular attention to the factors described below which, among other conditions, could affect the payment of debt service on the Bonds and could affect the market price and marketability of the Bonds to an extent that cannot be determined at this time.

Limited Obligations

The Bonds are special limited obligations of the City payable as to principal and interest solely from Pledged Revenues. Therefore, the security for the punctual payment of the principal of and interest on the Bonds is dependent on the City's receipt of the Pledged Revenues in an amount sufficient to meet the debt service requirements of the Bonds, the Parity Superior Lien Gross Receipts Tax Obligations and the Subordinate Lien Gross Receipts Tax Obligations. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS", "INFORMATION CONCERNING GROSS RECEIPTS TAXES AND REVENUES" herein. The Bonds and the interest thereon do not constitute a debt or indebtedness of the City within the meaning of any provision or limitation of the Constitution or laws of the State and do not give rise to a pecuniary liability of the City or a charge against its general credit or taxing power. Further, the Bonds are not obligations of the State, and the owners of the Bonds may not look to the State for payment of the principal of or interest on the Bonds.

NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION OR PUBLIC AGENCY THEREOF, OTHER THAN THE CITY TO THE EXTENT OF THE PLEDGED REVENUES, ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS.

Superior Gross Receipts Tax Obligation

The lien on the Pledged Gross Receipts Tax Revenues securing the Bonds will be subordinate to the lien on the Pledged Gross Receipts Tax Revenues securing the Superior Lien Gross Receipts Tax Obligations. See "SECURITY AND SOURCES OF PAYMENTS FOR THE BONDS" herein.

Additional Superior Lien Gross Receipts Tax Obligations Payable from Pledged Gross Receipts Tax Revenues

The Bond Ordinance permits the issuance of additional Parity Superior Lien Gross Receipts Tax Obligations and additional Parity Subordinate Lien Gross Receipts Tax Obligations if certain conditions specified in the Bond Ordinance are satisfied. See "SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDINANCE—Additional Superior Lien Gross Receipts Tax Obligations and Parity Subordinate Lien Gross Receipts Tax Obligations" herein.

Gross Receipts Tax Collections are Subject to Fluctuation; Effect of Tourism

Gross receipts tax collections are subject to the fluctuations in spending related, in part, to national and local economic conditions, which determine the amount of gross receipts taxes collected. This causes gross receipts tax revenues to increase along with the increasing prices brought about by inflation, but also causes collections to be vulnerable to adverse economic conditions and reduced spending. The City's economic base and the future collections of Pledged Gross Receipts Tax Revenues are impacted by tourism and summer and winter resort activities. The City's associated retail sales are affected by both weather and general economic circumstances. See SPECIAL FACTORS RELATING TO THE BONDS -- Public Health Pandemics or Outbreak Risks herein.

The Pledged Gross Receipts Tax Revenues are based on the total gross receipts of persons transacting business within the City that is subject to payment of the gross receipts taxes that produce Pledged Gross Receipts Tax Revenues. Various circumstances and developments, most of which are beyond the control of the City, may have an adverse effect on the future level of Pledged Gross Receipts Tax Revenues. Such circumstances may include, among others, adverse changes in national and local economic and financial conditions generally, reductions in the rates of employment and economic growth in the City, the State and the region, a decrease in rates of population growth and rates of residential and commercial development in the City, the County, the State, and the region and various other factors.

For the fiscal year ended June 30, 2020, total taxable gross receipts reported by standard industrial classification were $3,692,443,207, compared with $3,973,758,233 in the previous fiscal year (both figures unaudited). See "INFORMATION CONCERNING GROSS RECEIPTS TAXES AND REVENUES – Total Taxable Gross Receipts Reported by Standard Industrial Classification" and "INFORMATION CONCERNING GROSS RECEIPTS TAXES AND REVENUES – Total Gross Receipts Reported by Standard Industrial Classification."

For the fiscal year ended June 30, 2020, State Shared Gross Receipts Tax Revenues totaled $43,857,758, representing an increase of 3.51% from the previous fiscal year. Since 2010, State- Shared Gross Receipts Tax Revenues have increased each year until 2014, in which such revenues decreased by 3.3%. After the fiscal year ended June 30, 2014, State-Shared Gross Receipts Tax Revenues have increased in each year through 2020. See "INFORMATION CONCERNING GROSS RECEIPTS TAXES AND REVENUES" herein. For the fiscal year ended June 30, 2020, total One-Half Percent Municipal Gross Receipts Tax Revenues were $19,192,912, representing an increase of 17.31% from the previous fiscal year. In the last ten years, the One-Half Percent Municipal Gross Receipts Tax Revenues decreased in fiscal year 2010 before increasing in each year until fiscal year 2019. For fiscal year ended June 30, 2019, total Pledged Infrastructure Gross Receipts Tax Revenues were $2,231,223, representing a decrease of 0.034% from the previous fiscal year. In the last ten years, the Pledged Infrastructure Gross Receipts Tax Revenues decreased in fiscal year 2010, and then increased in fiscal year 2011 and every year following, until fiscal year 2019, in which such revenues decreased by 0.03%, and then increased in fiscal year 2020 by 3.38%.[(1)]

[(1)] Figures are unaudited.

Source: EMMA Continuing Disclosure, March 2021

Additional revenues related to each specifically named gross receipts tax revenue category are included in the percentages described above. The City cannot predict with certainty the future growth or decline of gross receipts tax revenues. A decline of gross receipts tax revenues may adversely affect the financial well-being of the City and the City's ability to make payments on the Bonds.

Public Health Pandemics or Outbreak Risks

An international, national or localized public health pandemic or outbreak could adversely impact the City's operations and finances and the Pledged Revenues. The World Health Organization has declared a pandemic following the outbreak of COVID-19, a respiratory disease caused by a new strain of coronavirus.

On March 11, 2020, New Mexico Governor Michelle Lujan Grisham issued Executive Order 2020-004, declaring a state of public health emergency and directing State agencies to use all resources necessary to prepare for and respond to the outbreak, which declaration was renewed on January 8, 2021. Governor Lujan Grisham, New Mexico Department of Health ("NMDOH") Secretary Kathyleen Kunkel and NMDOH Secretary-Designate Tracie C. Collins, M.D. have issued additional orders that, among other things, order the temporary closure of all public schools and certain businesses and non-profit entities, advise the public to stay home except for necessary outings, and direct that hotels, motels, RV parks, and other places of lodging shall not operate at more than 25% of maximum occupancy, and prohibit mass gatherings.

On June 2, 2021, the Secretary of NMDOH renewed the December 30, 2020 Public Health Order Clarifying that Current Guidance Documents, Advisories and Emergency Public Orders Remain in Effect; and Amending Prior Public Health Emergency Orders to Impose County-by-County Restrictions due to COVID-19. The December 30, 2020 Order provides for a "Red to Green" framework for three levels of operations that are based on a county's ability to satisfy the following specified metrics: Green Level Counties must have (1) a new COVID-19 incidence rate of no greater than 8 cases per 100,000 inhabitants during the most recent two-week period, and (2) an average percentage of positive COVID-19 test results over the most recent 14-day period less than or equal to 5%. Yellow Level Counties must meet one of the foregoing metrics. Red Level Counties do not meet either metric.

Green Level Counties may permit mass gatherings of more than 20 individuals in "essential businesses other than retail spaces" (but only to the extent necessary to carry out essential function) and may permit retail establishments, houses of worship, and food and drink establishments which complete the NM Safe Certified training program to operate at up to 50% maximum occupancy, and up to 75% capacity outdoors, if tables are at least 6 feet apart and a maximum of 6 patrons are seated at each table. Places of lodging which have completed the NM Safe Certified training program may operate at 75% of maximum occupancy; all other places of lodging may operate at 40%. "Close contact recreational facilities" may not operate.

Yellow Level Counties may permit mass gatherings of more than 10 individuals in essential businesses other than retail, but only to the extent necessary to carry out essential functions; essential businesses identified as retail and houses of worship may operate at up to 33% of maximum occupancy; outdoor recreational facilities and food and drink establishments that have completed the NM Safe Certified training program may operate at up to 25% capacity indoors, and up to 75% capacity outdoors, if tables are at least 6 feet apart and a maximum of 6 patrons are seated at each table. Places of lodging that have completed the NM Safe Certified training program may operate at 60% capacity, while all other places of lodging may operate at no more than 25% capacity. Close contact recreational facilities may not operate.

Red Level Counties may permit mass gatherings of more than 5 individuals in essential businesses other than those defined as retail space, but only to the extent absolutely necessary to carry out essential

functions; essential businesses identified as retail space, houses of worship and outdoor recreational facilities may operate at up to 25% of maximum occupancy; food and drink establishments may not offer dine-in service, but may provide service in outdoor seating areas at up to 25% occupancy, if tables are at least 6 feet apart and a maximum of 6 patrons are seated at each table.

The December 30, 2020 Public Health Order provides that, regardless of a county's level, all individuals shall wear a mask in public settings except where eating or drinking, unless a healthcare professional has directed otherwise; retail spaces shall limit the sale of medications, durable medical equipment, baby formula, diapers, sanitary care products and hygiene products to three items per individual. The order specifies additional requirements for immediate closure of businesses within its scope upon the occurrence of positive tests of individuals present in such locations for a 14 day period.

The foregoing is a summary of the December 30, 2020 Public Health Order and is not intended to be a comprehensive explanation of all requirements applicable to Green, Yellow and Red Level Counties. There can be no assurance that additional restrictions applicable to lodging occupancy, travel, mass gatherings, or other matters won't be imposed.

The New Mexico Department of Health provides information relating to COVID-19 and related developments in the State of New Mexico on its website, https://cv.nmhealth.org/. The information presented on the NMDOH website is not a part of this Official Statement and should not be relied upon in making an investment decision with respect to the Bonds. References to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement.

The current spread of COVID-19 is altering the behavior of businesses and people in a manner that may have negative effects on economic activity, and therefore adversely affect the financial condition of the City, either directly or indirectly. The City cannot predict (i) the duration or extent of the COVID-19 outbreak/pandemic; (ii) the duration or expansion of public health orders, regulations or legislation, mandated or voluntary business closings, travel restrictions or warnings; (iii) the extent or duration of the negative effects that any COVID-19 or other outbreak/pandemic-related orders, regulations, legislation, restrictions or warnings will have on the local or global economy; (iv) the duration of lodging occupancy and travel restrictions or (v) the extent of the adverse financial impact that such circumstances or economic effects will have on gross receipts tax collections or the City's financial condition. In addition, financial markets in the United States and globally have experienced significant volatility or declines in connection with the COVID-19 which may have a material impact on the market price of the Bonds.

Legislative Changes

Revisions to laws of the State affecting taxed activities and distributions of gross receipts tax revenues could be adopted in the future by the State Legislature. Proposals affecting taxed activities and distributions are frequently considered by the State Legislature. There is no assurance that any future revisions to State laws will not adversely affect activities now subject to the gross receipts tax or distribution of gross receipts tax revenues to the City. Notwithstanding the foregoing, the provisions of State law authorizing the issuance of revenue bonds (including gross receipts tax bonds such as the Bonds) include a provision stating that any law which authorizes the pledge of revenues to the payment of revenue bonds, or which affects the pledged revenue "shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any such outstanding revenue bonds."

In the 2004 Legislative Session, a bill was adopted by the Legislature and signed into law that relieved from gross receipts taxes (i) food or food products for home consumption sold at an establishment that sells food for home preparation and consumption and (ii) receipts from payments by a managed health

care provider or health care insurer for commercial contract services or Medicare Part C services provided by a health care provider. See Sections 7-9-92 and 7-9-93 NMSA 1978. The law also provides, pursuant to Section 7-1-6.46 NMSA 1978, for distribution from the State general fund to municipalities to offset any reduced gross receipts tax distributions resulting from the food and health care services tax relief effected by Sections 7-9-92 and 7-9-93. A portion of such offset distributions are included in the Pledged Revenues. However, as discussed below, these distributions began to be reduced by a legislatively set percentage each year starting in 2016 and will be phased out entirely by 2030.

In the 2012 Legislative session, the State Legislature amended the State Gross Receipts and Compensating Tax Act as related to certain manufacturing and construction gross receipts. Specifically, the amendment expanded the gross receipts tax deductions for sales of tangible property to manufacturers to include property consumed in the process of manufacturing, excluding tools and equipment. Additionally, the definition of "construction services" was expanded thereby increasing the scope of the deduction for sale of construction services to persons engaged in the construction business. Both of these amendments are phased in over the next several fiscal years.

In the 2013 New Mexico Legislative session, House Bill 641, passed by both chambers and signed by the Governor, included several changes to New Mexico's tax code. The bill lowers the New Mexico's top corporate income tax over five years and permits single sales factor apportioning for certain manufacturing corporations phased in over five years, amends the gross receipts tax deduction for tangible property consumed in the manufacturing process, and amends the high-wage jobs tax credit to extend the credit and add qualifications criteria for the credit. The bill also requires combined reporting for certain corporations and phases out the hold-harmless distribution to municipalities and counties that offset the food and medical deductions over 15 years starting in Fiscal Year 2016.

Other amendments to State laws affecting taxed activities and distribution of gross receipts tax revenues have been proposed from time to time and could be proposed in the future by the Legislature. There is no assurance that any future amendments will not adversely affect activities now subject to the gross receipts tax or distribution of gross receipts tax revenues to the City.

The law as currently enacted will result in annual reductions and ultimately the elimination of the hold harmless distributions to the City, which began on July 1, 2015, as follows:

Fiscal year ending June 30	% of Total Hold Harmless Distribution*
2016	94%
2017	88%
2018	82%
2019	76%
2020	70%
2021	63%
2022	56%
2023	49%
2024	42%
2025	35%
2026	28%
2027	21%
2028	14%
2029	7%
2030	-0-

* Based on percentage of total deductions from gross receipts claimed for sale of food at retail food stores and services provided by health care practitioners.

In order to offset the reduced hold harmless distributions, the law allows municipalities and counties to impose a local option gross receipts tax of up to three-eighths of one percent (3/8%) (the "Hold Harmless Gross Receipts Tax"). The City has not imposed any increment of the Hold Harmless Gross Receipts Tax and the imposition of any increment of such tax would not be pledged toward repayment of the Bonds without additional action by the City Council. It is possible that the New Mexico Legislature will further amend the law to provide for additional decreases in hold harmless distributions in the event that a municipality or county imposes any increment of the Hold Harmless Gross Receipts Tax.

Bankruptcy and Foreclosure

The ability of the State to collect gross receipts taxes owed from an owner or operator of a business may be adversely affected by the filing of a bankruptcy proceeding by the owner. The ability to collect delinquent gross receipts taxes using foreclosure and sale for non-payment of taxes may be forestalled or delayed by bankruptcy, reorganization, insolvency or other similar proceedings affecting the owner or operator of a business. The Federal bankruptcy laws provide for an automatic stay of foreclosure and sale proceedings, thereby delaying such proceedings, perhaps for an extended period. Delays in the exercise of remedies could result in gross receipts tax collections that may be insufficient to pay debt service on the Bonds when due.

Secondary Market

No guarantee can be made that a secondary market for the Bonds will be established and maintained. Owners of Bonds should be prepared to hold their bonds to maturity.

Bond Ratings

There is no assurance that the ratings assigned to the Bonds will not be lowered or withdrawn at any time, the effect of which could adversely affect the market price or the marketability of the Bonds. See the information herein under the caption "RATINGS."

THE REFUNDING PROJECT

The Bonds are being issued to provide funds for the Refunding Project. The Refunding Project will pay the costs of refunding, discharging and paying the principal of, and accrued interest on, the Series

2010B Bonds and the Series 2012A Bonds maturing on and after June 1, 2021, and paying the costs of issuance of the Bonds allocable to the Refunding Project.

SOURCES AND USES OF FUNDS

The proceeds from the sale of the Bonds will be applied as follows:

Sources of Funds	
Par Amount of Bonds	
Original Issue Premium	
Total	$
Uses of Funds	
Costs of Issuance[(1)]	
Underwriters' Discount[(2)]	
Refunding Account	
Total	

(1) Includes financial advisor fees, legal fees, fees of the paying agent/registrar and other miscellaneous costs and expenses related to the issuance of the Bonds.
(2) See "UNDERWRITING" herein.
Source: Hilltop Securities Inc.

DESCRIPTION OF THE BONDS

General

The Bonds are being issued in the aggregate principal amount of $_____* to provide funds for the Refunding Project . See "THE REFUNDING PROJECT" herein.

The Bonds will be dated their date of issuance and initial delivery to the Underwriters as set forth on the cover page hereto. The Bonds will bear interest at the rates, and will mature in the amounts and on the dates set forth on the inside front cover page of this Official Statement. Interest on the Bonds will be payable semiannually on June 1 and December 1 of each year, commencing December 1, 2021 until maturity or prior redemption. The Bonds will bear interest from their date of issuance and delivery. Interest on the Bonds will be computed on the basis of a 360-day year consisting of twelve 30-day months. The Bonds will be issued as fully registered bonds in denominations of $5,000 or any integral multiple thereof; provided that no Bonds may be in a denomination which exceeds the principal coming due on any maturity date, and no individual Bond will be issued for more than one maturity.

The principal of any Bond will be payable to the registered owner thereof as shown on the registration books with respect to the Bonds kept by BOKF, NA, registrar (the "Registrar"), upon maturity thereof and upon presentation and surrender to BOKF, NA, paying agent (the "Paying Agent"). If any Bond is not paid upon such presentation and surrender at or after maturity, it will continue to draw interest at the rate borne by the Bond until the principal thereof is paid in full. Payment of interest on any Bond will be made by check or draft mailed by the Paying Agent, on or before each interest payment date (or, if such interest payment date is not a business day, on or before the next succeeding business day), to the registered owner thereof as of the fifteenth day of the calendar month (whether or not a business day) preceding each regularly scheduled interest payment date on the Bonds (the "Regular Record Date") at the address as it last appears on the registration books with respect to the Bonds on the Regular Record Date (or by such other arrangements as may be mutually agreed to by the Paying Agent and any registered owner on such Regular Record Date) notwithstanding any transfer or exchange thereof subsequent to such Regular

* Preliminary, subject to change.

Record Date and prior to such interest payment date. Any interest not so timely paid or duly provided for will cease to be payable as described above and will be payable to the person in whose name any Bond is registered at the close of business on a special record date to be fixed by the Registrar (the "Special Record Date") whenever moneys become available for payment of any such defaulted interest. Notice of the Special Record Date will be given not less than 10 days prior thereto, by first-class mail, to the registered owners of the Bonds. See "DESCRIPTION OF THE BONDS—Book-Entry Only System" herein.

All payments of principal and interest on the Bonds will be made in lawful money of the United States of America. The City and the Registrar may treat the registered owner of a Bond as the absolute owner thereof for all purposes except as otherwise provided in the Bond Ordinance with respect to the Regular Record Date and the Special Record Date for the payment of interest. Payment of or on account of either principal or redemption price or interest on any Bond will be made only to or upon the written order of the registered owner thereof or his legal representative. All such payments will be valid and effectual to discharge the liability upon the Bond to the extent of the sum or sums so paid.

Optional Redemption of Bonds

A. Optional Redemption. The Bonds maturing on and after June 1 ____, are subject to redemption prior to their stated maturities at the City's option in one or more units of principal of $5,000 on at par on and after June 1, _____ in whole or in part at any time, in such order of maturities as the City may determine (and by lot if less than all of the Bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner considered appropriate and fair) at a redemption price equal to the principal amount of the Bonds or portions thereof to be redeemed plus accrued interest, if any, to the date fixed for redemption.

B. Notice by City. At least 45 days prior to any date selected by the City for optional redemption of any of the Bonds, the City shall give written instructions to the Registrar with respect to the optional redemption. The Registrar shall not be required to give notice of any optional redemption unless the Registrar has received written instructions from the City in regard thereto at least 45 days prior to such redemption date (unless such deadline is waived by the Registrar). Additionally, notice of optional redemption shall be given by the City by sending a copy of such notice by first-class, postage prepaid mail, not less than thirty days prior to the optional redemption date to the Paying Agent, if the Registrar is not the Paying Agent.

C. Notice by Registrar. Additionally, notice of redemption shall be given by the Registrar by sending a copy of such notice in the manner required by the Depository or by first-class, postage prepaid mail, not more than 60 days and not less than 30 days prior to the redemption date to each registered owner of each Bond selected for redemption as shown on the registration books kept by the Registrar as of the date of mailing of notice. Failure to give such notice by mailing to the registered owner of any Bond, or any defect therein, shall not affect the validity of the proceedings for the redemption of any of the Bonds.

D. Other Redemption Details. The notice required by paragraph C of this Section shall specify the number or numbers of the Bond or Bonds or portions thereof to be so redeemed (if less than all are to be redeemed); and all notices required by this Section shall specify the date fixed for redemption, and shall further state that on such redemption date there will become and be due and payable upon each $5,000 unit of principal so to be redeemed at the Paying Agent the principal thereof, accrued interest, if any, to the redemption date, and the applicable prior redemption premium thereon (if any), and that from and after such date interest will cease to accrue. Accrued interest to the redemption date will be paid by check or draft mailed to the registered owner (or by alterative means if so agreed to by the Paying Agent and the registered owner). Notice having been given in the manner hereinbefore provided, the Bond or Bonds so called for redemption shall become due and payable on the redemption date so designated; and upon presentation thereof at the Paying Agent, the City will pay the Bond or Bonds so called for redemption and the applicable prior redemption premium (if any). In the event that only a portion of the principal amount

of a Bond is so redeemed, a new Bond representing the unredeemed principal shall be duly completed, authenticated and delivered by the Registrar to the registered owner pursuant to Section 9 of the Bond Ordinance and without charge to the registered owner thereof. The Registrar and Paying Agent shall comply with any other terms regarding redemption and notice of redemption as required by any applicable agreement with a Depository.

E. Conditional Redemption. If money or Government Obligations sufficient to pay the redemption price of the Bonds to be called for redemption are not on deposit with the Paying Agent prior to the giving of notice of redemption pursuant this Section, such notice shall state such Bonds will be redeemed in whole or in part on the redemption date in a principal amount equal to that part of the redemption price received by the Paying Agent on the applicable redemption date. If the full amount of the redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Bonds for which the redemption price is on deposit with the Paying Agent. If all Bonds called for redemption cannot be redeemed, the Bonds to be redeemed shall be selected in a manner deemed reasonable and fair by the City and the Registrar shall give notice, in the manner in which the original notice of redemption was given, that such money was not received in accordance with the requirements of the Bond Ordinance. In that event, the Registrar shall promptly return to the Owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been redeemed.

Registration, Transfer and Exchange of Bonds

Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer of any Bonds at the Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not contemporaneously outstanding. Bonds may be exchanged at the Registrar for an equal aggregate principal amount of Bonds of the same maturity of other authorized denominations. The Registrar shall authenticate and deliver a Bond or Bonds which the registered owner making the exchange is entitled to receive, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds as provided in the Bond Ordinance shall be without charge to the owner or any transferee, but the Registrar may require the payment by the owner of any Bond requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.

If any Bond is lost, stolen, destroyed or mutilated, the Registrar will, upon receipt of such evidence, information or indemnity relating thereto as it may reasonably require, authenticate and deliver a replacement bond or bonds of like aggregate principal amount and of the same subseries and maturity, bearing a number or numbers not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Bond has matured, the Registrar may direct the Paying Agent to pay such Bond in lieu of replacement.

Book-Entry Only System

Introduction

Unless otherwise noted, the information contained under the caption "General" below has been provided by DTC. The City, the Financial Advisor, the Underwriters or their agents and counsel, make no representations as to the accuracy or the completeness of such information. The Beneficial Owners of the Bonds should confirm the following information with DTC, the Direct Participants or the Indirect Participants.

NEITHER THE CITY NOR THE PAYING AGENT WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DIRECT PARTICIPANTS, TO INDIRECT PARTICIPANTS, OR TO ANY

BENEFICIAL OWNER WITH RESPECT TO (A) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT, OR ANY INDIRECT PARTICIPANT; (B) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE BONDS UNDER THE BOND ORDINANCE; (C) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE BONDS; (D) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR INTEREST DUE TO THE OWNER OF THE BONDS; (E) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNERS OF THE BONDS; OR (F) ANY OTHER MATTER REGARDING DTC.

General

The Bonds will be issued in book-entry form. DTC will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered bond will be issued for each maturity of the Bonds, each in the aggregate principal amount of that maturity and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of the Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of the Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each bond (the "Beneficial Owner") in turn is to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interest in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested

by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Bonds unless authorized by Direct Participants in accordance with DTC's procedures. Under its usual procedures, DTC will mail an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal of and sinking fund and interest payments on the Bonds will be made to Cede & Co., or such other name as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts on each payable date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on the date payable. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City, disbursement of such payments to Direct Participants shall be the responsibility of DTC or the Paying Agent, and disbursement of such payments to the Beneficial Owners shall be responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the City or the City may decide to discontinue use of the system of book entry transfers through DTC (or a successor securities depository). In such an event, bonds will be printed and delivered as described in the Bond Ordinance.

The City cannot and does not give any assurances that DTC will distribute to Participants, or that Participants or others will distribute to the Beneficial Owners, payments of principal of and interest and premium, if any, on the Bonds paid or any redemption or other notices or that they will do so on a timely basis or will serve and act in the manner described in this Official Statement. The City is not responsible or liable for the failure of DTC or any Direct Participant or Indirect Participant to make any payments or give any notice to a Beneficial Owner with respect to the Bonds or any error or delay relating thereto.

The foregoing description of the procedures and record keeping with respect to beneficial ownership interests in the Bonds, payment of principal of and interest and other payments with respect to the Bonds to Direct Participants, Indirect Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in such bonds and other related transactions by and between DTC, the Direct Participants, the Indirect Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and none of the Direct

Participants, the Indirect Participants or the Beneficial Owners should rely on the foregoing information with respect to such matters but should instead confirm the same with DTC or the Participants, as the case may be.

SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE BONDS, AS NOMINEE OF DTC, REFERENCES HEREIN TO THE HOLDERS SHALL MEAN CEDE & CO., AS AFORESAID, AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE BONDS.

SECURITY AND SOURCES OF PAYMENT FOR THE BONDS

Limited Obligations

The Bonds are special limited obligations of the City and are payable as to principal and interest exclusively from the Pledged Revenues. Pledged Revenues consist of (i) the revenues distributed to the City monthly by the Department pursuant to Sections 7-1-6 and 7-1-6.4 NMSA 1978, at the rate authorized (currently 1.225% of the gross receipts of persons doing business within the City) from the proceeds of a state-wide gross receipts tax imposed pursuant to Chapter 7, Article 9, NMSA 1978 (the "State-Shared Gross Receipts Tax Revenues"); (ii) the revenues received by the City pursuant to the Sections 7-19D-9 through 7-19D-12 NMSA 1978 and Ordinance No. 1981-45 of the City, which impose a 0.50% tax on the gross receipts of persons doing business within the City (the "One-Half Percent Municipal Gross Receipts Tax Revenues"); (iii) the revenues received by the City pursuant to Section 7-19D-11 NMSA 1978 and Ordinance No. 1993-21 of the City which impose a 0.0625% tax on the gross receipts of persons doing business within the City (the "Infrastructure Gross Receipts Tax Revenues"); (iv) the portion of the gross receipts tax distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues, and Pledged Infrastructure Gross Receipts Tax Revenues that would have been remitted to the City but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978, and any similar distributions made to the City in lieu of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues and Infrastructure Gross Receipts Tax Revenues pursuant to law; and (v) any other gross receipts tax revenues received by the City, whether from distribution by the State or pursuant to gross receipts taxes imposed by the City and hereafter pledged to the payment of the Bonds by an affirmative act of the City Council of the City. See "SPECIAL FACTORS RELATING TO THE BONDS—Legislative Changes".

Additionally, certain amounts held under the Bond Ordinance are pledged to secure the payment of the principal and interest on the Bonds in accordance with the terms of the Bond Ordinance permitting the application thereof for the purposes and on the terms and conditions set forth therein.

THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL, CHARTER OR STATUTORY PROVISION OR LIMITATION, NOR WILL THEY BE CONSIDERED OR HELD TO BE GENERAL OBLIGATIONS OF THE CITY. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION OR PUBLIC AGENCY THEREOF, OTHER THAN THE CITY TO THE EXTENT OF THE PLEDGED REVENUES, ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS. NO OWNER HAS THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE CITY OR THE FORFEITURE OF ANY OF ITS PROPERTY IN CONNECTION WITH ANY DEFAULT UNDER THE BOND ORDINANCE.

The Pledged Gross Receipts Tax Revenues will be disbursed, allocated and applied solely for the uses and purposes described below under "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS—Pledged Gross Receipts Tax Revenues – *Parity Superior Lien Gross Receipts Tax Obligations* and – *Subordinate Lien Gross Receipts Tax Obligations*" and "SUMMARY OF CERTAIN PROVISIONS

OF THE BOND ORDINANCE—Administration of Pledged Revenue Funds." Amounts on deposit in each of the funds and accounts established pursuant to the Bond Ordinance will be invested in Permitted Investments. Investment income on amounts in any fund or account will be credited to such fund or account, and any loss will be charged to such fund or account.

Pledged Gross Receipts Tax Revenues

Superior Lien Gross Receipts Tax Obligations

All Pledged Gross Receipts Tax Revenues are irrevocably pledged by the City with a subordinate (but not an exclusive subordinate) lien thereon to secure the punctual payment of the principal of, redemption premium, if any, and interest on the Bonds and any other outstanding Parity Subordinate Lien Gross Receipts Tax Obligations, subject to the prior and superior lien of Superior Lien Gross Receipts Obligations now outstanding and which may be issued in the future. Such pledge of the Pledged Gross Receipts Tax Revenues and the pledge of the amounts in funds created under the Bond Ordinance will be valid and binding from and after the delivery of the Bonds without any physical delivery thereof or further act.

Subordinate Lien Gross Receipts Tax Obligations

After the Pledged Gross Receipts Tax Revenues are applied to Superior Lien Gross Receipts Tax Obligations now outstanding or which may be issued in the future, remaining Pledged Gross Receipts Tax Revenues will be applied to the payment of the principal of, interest and redemption premium, if any, on outstanding Subordinate Lien Gross Receipts Tax Obligations, without priority or distinction of one over the other. After making the foregoing allocations, remaining Pledged Gross Receipts Tax Revenues will be available to the City for all lawful City purposes. The pledge of the Pledged Gross Receipts Tax Revenues to the Bonds will be irrevocable until all Bonds are no longer outstanding. Additionally, certain amounts held under the Bond Ordinance are pledged to secure the payment of the principal and interest on the Bonds in accordance with their terms, subject only to the provisions of the Bond Ordinance permitting the application thereof for the purposes and on the terms and conditions set forth therein.

INFORMATION CONCERNING GROSS RECEIPTS TAXES AND REVENUES

As security for its obligations to pay the principal of and interest on the Bonds, the City has pledged revenues from the State Gross Receipts Tax (to the extent that the City is allocated a share of such revenues, as described below), the One-Half Percent Municipal Gross Receipts Tax described below, and the Pledged Infrastructure Gross Receipts Tax described below.

State Gross Receipts Tax

Imposition of Tax. The Gross Receipts and Compensating Tax Act (Sections 7-9-1 through 7-9-114 NMSA 1978) authorizes the State of New Mexico to impose a gross receipts tax (the "State Gross Receipts Tax") which is levied by the State of New Mexico for the privilege of doing business in the State of New Mexico and is collected by the New Mexico Taxation and Revenue Department (the "Department"). The State of New Mexico presently levies a gross receipts tax of five and one eighth percent (5.125%) of taxable gross receipts. Of the 5.125 cents collected per dollar of taxable gross receipts reported for a particular municipality, 1.225 cents is distributed to the municipality by the State of New Mexico monthly, based on the prior month's filings (the "State-Shared Gross Receipts Tax Revenues"). See "Manner of Collection and Distribution of State Gross Receipts Tax" under this caption and "SPECIAL FACTORS RELATING TO THE BONDS – Legislative Changes."

Taxed Activities. For the privilege of engaging in business in the State of New Mexico, the State Gross Receipts Tax is imposed upon any person engaging in business in the State. "Gross Receipts" is defined in the Gross Receipts and Compensating Tax Act as the total amount of money or value or other

consideration received from selling property in the State of New Mexico (including tangible personal property handled on consignment in the State), from leasing property employed in the State of New Mexico, from performing services in the State of New Mexico and from selling services outside New Mexico, the product of which is initially used in New Mexico. The definition excludes cash discounts allowed and taken, the State Gross Receipts Tax payable on transactions for the reporting period and any county sales tax, county fire protection excise tax, county and municipal gross receipts taxes, any type of time-price differential and certain gross receipts or sales taxes imposed by an Indian tribe or pueblo. Unlike most other states, the State taxes sales of services, including legal services and certain medical services.

Exemptions and Deductions. Some activities and industries are exempt from the State Gross Receipts Tax many by virtue of their taxation under other laws. Exemptions include but are not limited to receipts of governmental agencies and certain organizations (some of which are taxable by the State, with no local distribution), receipts from the sale of vehicles, occasional sales of property or services, wages, certain agricultural products, dividends, receipts from the sale of prescription drugs and certain federal government paid medical expenses and interest and receipts from the sale of or leasing of natural gas, oil or mineral interests. Various deductions are also allowed, including, but not limited to, receipts from the sale or lease of real property, receipts from various types of sales or leases of tangible personal property or services, receipts from sales to governmental agencies or certain organizations, receipts from processing certain agricultural products, receipts from certain publication sales, certain receipts from interstate commerce transactions and receipts from the sale of certain food and certain medical services. See "Imposition of State Gross Receipts Tax" under this caption. In spite of the numerous specified exemptions and deductions from gross receipts taxation, the general presumption is that all receipts of a person engaging in business in the State and the City are subject to the State Gross Receipts Tax.

Legislative Changes. Revisions to laws of the State affecting taxed activities and distributions of gross receipts tax revenues could be adopted in the future by the State Legislature. Proposals affecting taxed activities and distributions are frequently considered by the State Legislature. There is no assurance that any future revisions to State laws will not adversely affect activities now subject to the gross receipts tax or distribution of gross receipts tax revenues to the City. See "SPECIAL FACTORS RELATING TO THE BONDS – Legislative Changes" herein.

Manner of Collection and Distribution of State Gross Receipts Tax. Businesses must make their payments of State Gross Receipts Taxes on or before the twenty-fifth of each month for taxable events in the prior month. Collection of the State Gross Receipts Tax is administered by the Revenue Division of the Department (the "Revenue Division"), pursuant to Section 7-1-6 NMSA 1978. Collections are first deposited into a suspense fund for the purpose of making disbursements for refunds, among other items. On the last day of each month, the balance of the suspense fund is transferred to the State general fund, less the following disbursements to the municipalities in the State. The Revenue Division remits monthly to municipalities, including the City, an amount equal to the product of the quotient of 1.225% divided by the tax rate times the net receipts (total amount paid by taxpayers less any refunds disbursed), less applicable deductions and disbursements, attributable to the gross receipts of businesses located in the municipality and other designated areas.

Remedies for Delinquent Taxes. The Revenue Division may assess State Gross Receipts Taxes to a taxpayer who has not paid the taxes due to the State. If any taxpayer to whom State Gross Receipts Taxes have been assessed or upon whom demand for payment has been made does not make payment thereof (or protest the assessment or demand for payment) within thirty (30) days after the date of assessment or demand for payment, the taxpayer becomes a delinquent taxpayer. Such taxpayer remains delinquent until payment of all the taxes due, including interest and penalties, or until security is furnished for the payment thereof. The Revenue Division may, under certain circumstances, enter into an agreement with a delinquent taxpayer to permit monthly installment payments for a period of not more than sixty (60) months. Interest is due on any delinquent taxes from the first day following the day on which it is due at a variable rate based on the applicable federal rate under the Internal Revenue Code Section 6621, as determined from time to

time, computed on a daily basis until paid, without regard to any installment agreement. However, if the State Gross Receipts Tax is paid within ten (10) days after demand is made, no interest shall be imposed for the period after the date of demand.

The Revenue Division may levy upon all property or rights to property of a delinquent taxpayer and sell the same in order to collect the delinquent tax. The amount of delinquent State Gross Receipts Taxes is also a lien in favor of the State upon all property and rights to property of the delinquent taxpayer, which lien may be foreclosed as provided by State statutes.

State Gross Receipts Tax Report. Set forth below is a 10-year history of the State-Shared Gross Receipts Tax Revenues received by the City:

Fiscal Year Ended 6/30	State Gross Receipts Tax Rate	Percentage Distributed to City	State-Shared Gross Receipts Tax Revenues[1]	Percent Increase (Decrease)
2011	5.125%	1.225%	35,925,147	1.50%
2012	5.125%	1.225%	37,065,822	3.18%
2013	5.125%	1.225%	37,634,396	1.53%
2014	5.125%	1.225%	36,390,693	(3.31%)
2015	5.125%	1.225%	37,283,925	2.45%
2016	5.125%	1.225%	38,643,525	3.65%
2017	5.125%	1.225%	39,418,967	2.01%
2018	5.125%	1.225%	42,286,241	7.27%
2019	5.125%	1.225%	42,369,327	0.30%
2020	5.125%	1.225%	43,857,758	3.51%

Source: State of New Mexico Department of Finance and Administration, Local Government Division; City of Santa Fe Finance Department.

[1] Includes all State-Shared Gross Receipts Tax Revenues and related additional revenues received by the City.

Municipal Gross Receipts Tax

Authority for Imposition of the Municipal Gross Receipts Tax. The Municipal Local Option Gross Receipts Tax Act, Sections 7-19D-1 through 7-19D-9, NMSA 1978, authorizes municipalities to impose by ordinance an excise tax ("Municipal Gross Receipts Tax") not to exceed 1.25% of the gross receipts of any person engaging in business in the municipality. An election of the registered electors of a municipality is not required unless the municipality chooses to submit the ordinance to its registered electors or a petition is filed requesting such an election. The ordinance imposing or amending any Municipal Gross Receipts Tax becomes effective either July 1 or January 1, whichever date occurs first after the expiration of three months from the date the ordinance is enacted or the date the results of the election are certified. No referendum election was held for the City's Municipal Gross Receipts Taxes described below.

Pursuant to the Municipal Local Option Gross Receipts Taxes Act and the One-Half Percent Municipal Gross Receipts Tax Ordinance, the City has imposed a municipal gross receipts tax on persons engaging in business in the City in the amount of one-half of one percent (0.50%) and receives monthly One-Half Percent Municipal Gross Receipts Tax Revenues from the New Mexico Department of Taxation and Revenue equal to one-half of one percent (0.50%) of the gross receipts of persons engaging in business within the City, as determined and adjusted under the Municipal Local Option Gross Receipts Taxes Act. The One-Half Percent Municipal Gross Receipts Tax was imposed by City Ordinance No. 1981-45 (the "One-Half Percent Gross Receipts Tax Ordinance") and is dedicated for capital improvements to City facilities and street and road construction and reconstruction as authorized by the Municipal Local Option Gross Receipts Taxes Act. Other increments of Municipal Gross Receipts Tax are imposed by the City

which are not pledged for payment of Subordinate Lien Gross Receipts Tax Obligations or Superior Lien Gross Receipts Tax Obligations.

Infrastructure Gross Receipts Tax

Authority for Imposition of the Infrastructure Gross Receipts Tax. Section 7-19D-11 NMSA 1978 authorizes municipalities to impose by ordinance an excise tax ("Infrastructure Gross Receipts Tax") not to exceed one quarter of one percent (0.25%), in increments of one sixteenth of one percent (0.0625%), of the gross receipts of any person engaging in business in the municipality. The first one-eighth of one percent of the tax is not subject to referendum unless any portion was imposed after July 1, 1998 for economic development. Any Infrastructure Gross Receipts Tax imposed after July 1, 1998 for the purpose of certain economic development plans and projects must be submitted to a vote of the taxpayers in a referendum election. The ordinance imposing or amending the Infrastructure Gross Receipts Tax becomes effective either July 1 or January 1, whichever date occurs first after the expiration of three months from the date the ordinance is mailed or delivered to the Department.

Pursuant to Section 7-19D-11 NMSA 1978 and City Ordinance No. 1993-21, the City has imposed an Infrastructure Gross Receipts Tax on persons engaging in business in the City and receives monthly distributions of Infrastructure Gross Receipts Tax Revenues from the Department equal to one sixteenth of one percent (0.0625%) of the gross receipts of persons engaging in business within the City, as determined and adjusted under the Municipal Local Option Gross Receipts Taxes Act and the Gross Receipts and Compensating Tax Act. The Infrastructure Gross Receipts Tax is dedicated for purposes authorized by Section 7-19D-11 NMSA 1978. Other increments of Infrastructure Gross Receipts Tax are imposed by the City which are not pledged for payment of Subordinate Lien Gross Receipts Tax Obligations or Superior Lien Gross Receipts Tax Obligations.

Administration

Exemptions, Deductions and Credits. Any municipal ordinance imposing a Municipal Gross Receipts Tax or an Infrastructure Gross Receipts Tax is required to adopt by reference the same definitions and the same provisions relating to exemptions and deductions. See "State Gross Receipts Tax – Exemptions" herein. In addition, neither a Municipal Gross Receipts Tax, nor an Infrastructure Gross Receipts Tax may be imposed on the gross receipts arising from (1) the transmission of messages by wire or other means from one point within the municipality to another point outside the municipality; (2) transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or (3) a business located outside the boundaries of a municipality on land owned by that municipality for which a gross receipts tax distribution is made pursuant to the Gross Receipts and Compensating Tax Act.

Manner of Collection of Municipal Gross Receipts Taxes and Infrastructure Gross Receipts Taxes. Municipal Gross Receipts Taxes and Infrastructure Gross Receipts Taxes are collected by the Revenue Division in the same manner and at the same time that the Revenue Division collects the State Gross Receipts Tax. The Revenue Division remits to the City the revenues collected from the One-Half Percent Municipal Gross Receipts Tax, the 0.75% Municipal Gross Receipts Tax, the 0.1875% Infrastructure Gross Receipts Tax and the Pledged Infrastructure Gross Receipts Tax less any deduction for administrative cost and less any disbursements for tax credits, refunds and the payment of applicable interest. Distribution of the One-Half Percent Municipal Gross Receipts Tax Revenues and the revenues from the 0.75% Municipal Gross Receipts Tax, the 0.1875% Infrastructure Gross Receipts Tax and the Pledged Infrastructure Gross Receipts Tax is made within the month following the month in which the taxes are collected.

Remedies for Delinquent Taxes. The remedies for delinquent Municipal Gross Receipts Taxes and Infrastructure Gross Receipts Taxes are the same as those remedies described in "State Gross Receipts Tax - Remedies for Delinquent Taxes" above.

One-Half Percent Municipal Gross Receipts Tax Report. Set forth below is a ten-year history of the One-Half Percent Municipal Gross Receipts Tax Revenues received by the City:

Fiscal Year Ended June 30	One-Half Percent Municipal Gross Receipts Tax Rate	One-Half Percent Municipal Gross Receipts Tax Revenues[1][2]	Percent Increase (Decrease)
2011	0.50%	14,360,040	1.51%
2012	0.50%	14,814,638	3.16%
2013	0.50%	15,042,494	1.53%
2014	0.50%	15,489,596	2.97%
2015	0.50%	15,894,589	2.61%
2016	0.50%	16,496,023	3.78%
2017[3]	0.50%	18,222,207	10.46%
2018[3][4]	0.50%	21,208,930[3]	16.39%
2019	0.50%	16,361,265[5]	(22.86%)
2020	0.50%	19,192,912	17.31%

Source: State of New Mexico Department of Finance and Administration, Local Government Division; City of Santa Fe Finance Department.

[1] Includes all One-Half Percent Municipal Gross Receipts Tax Revenues and related additional revenues received by the City.
[2] Figures for Fiscal Years June 30, 2015 and June 30, 2016 represent adjustments to previously audited figures to correct errors in accrual.
[3] The One-Half Percent Municipal Gross Receipts Tax Revenues and Infrastructure Gross Receipts Tax Revenues for fiscal years 2017 and 2018 reflect amounts reported by the New Mexico Taxation and Revenue Department (TRD) and received by the City. Upon inquiry by the City, TRD has not provided information reconciling the disparity in the growth between the One-Half Percent Municipal Gross Receipts Tax and the Infrastructure Municipal Gross Receipts Tax.
[4] Unaudited.
[5] [EXPLAIN DECREASE]

Pledged Infrastructure Gross Receipts Tax Report. Set forth below is a ten-year history of the Pledged Infrastructure Gross Receipts Tax Revenues received by the City:

Fiscal Year Ended June 30	Infrastructure Gross Receipts Tax Rate	Infrastructure Gross Receipts Tax Revenues[1][2]	Percent Increase (Decrease)
2011	0.0625%	1,773,654	1.52%
2012	0.0625%	1,829,904	3.17%
2013	0.0625%	1,858,226	1.54%
2014	0.0625%	1,913,142	2.95%
2015	0.0625%	1,963,060	2.61%
2016	0.0625%	2,037,494	3.79%
2017[3]	0.0625%	2,076,214	1.90%
2018[3][4]	0.0625%	2,231,989[3]	7.50%
2019	0.0625%	2,231,223	(0.03%)
2020	0.0625%	2,306,713	3.38%

Source: State of New Mexico Department of Finance and Administration, Local Government Division; City of Santa Fe Finance Department.

[1] Includes all Infrastructure Gross Receipts Tax Revenues and related additional revenues received by the City.
[2] Figures for Fiscal Years June 30, 2015 and June 30, 2016 represent adjustments to previously audited figures to correct errors in accrual.
[3] The One-Half Percent Municipal Gross Receipts Tax Revenues and Infrastructure Gross Receipts Tax Revenues for fiscal years 2017 and 2018 reflect amounts reported by the New Mexico Taxation and Revenue Department (TRD) and received by the City. Upon inquiry by the City, TRD has not provided information reconciling the disparity in the growth between the One-Half Percent Municipal Gross Receipts Tax and the Infrastructure Municipal Gross Receipts Tax.
[4] Unaudited.

Historical Pledged Gross Receipts Tax Revenues and Coverages

Combined Pledged Gross Receipts Tax Revenues Report. Set forth below is a ten-year history of the Pledged One-Half Percent Municipal Gross Receipts Tax Revenues, Pledged Infrastructure Gross Receipts Tax Revenues and Pledged State-Shared Gross Receipts Tax Revenues distributed to the City:

Fiscal Year	One-Half Percent Municipal Gross Receipts Tax[1]	Infrastructure Gross Receipts Tax[1]	State-Shared Gross Receipts Tax	Total
2011	14,360,040	1,773,654	35,925,147	52,058,841
2012	14,814,638	1,829,904	37,065,822	53,568,756
2013	15,042,494	1,858,226	37,634,396	54,535,116
2014	15,489,596	1,913,142	36,390,693	53,793,431
2015[2]	15,894,589	1,963,001	37,283,925	55,141,514
2016[2]	16,496,023	2,037,494	38,643,525	57,177,042
2017[3]	18,222,207	2,076,214	39,418,967	59,717,388
2018[3][4]	21,208,930	2,231,989	42,286,241	65,727,161
2019	16,361,265	2,231,223	42,369,327	60,961,815
2020	19,192,912	2,306,713	43,857,758	65,357,382

Source: State of New Mexico Department of Finance and Administration, Local Government Division and City of Santa Fe Finance Department.

[1] Includes all Infrastructure Gross Receipts Tax Revenues and related additional revenues received by the City.
[2] Figures for Fiscal Years June 30, 2015 and June 30, 2016 represent adjustments to previously audited figures to correct errors in accruals.
[3] The One-Half Percent Municipal Gross Receipts Tax Revenues and Infrastructure Gross Receipts Tax Revenues for fiscal years 2017 and 2018 reflect amounts reported by the New Mexico Taxation and Revenue Department (TRD) and received by the City. Upon inquiry by the City, TRD has not provided information reconciling the disparity in the growth between the One-Half Percent Municipal Gross Receipts Tax and the Infrastructure Municipal Gross Receipts Tax.
[4] Unaudited.

Historical Pledged Gross Receipts Tax Revenues and Coverages. Set forth in the following table is a 10-year history of the Pledged Gross Receipts Tax Revenues and the corresponding debt service coverage on all of the City's outstanding indebtedness payable from the Pledged Revenues. See "CITY OF SANTA FE DIRECT AND OVERLAPPING DEBT AS OF JUNE 30, 2017 —Summary of Indebtedness" herein.

Fiscal Year	Total Pledged Gross Receipts Tax Revenues	Combined Superior and Subordinate Lien Debt Service	Historical Coverage
2011	52,058,841	20,708,850	2.51x
2012	53,568,756	21,503,646	2.49x
2013	54,535,116	20,435,447	2.66x
2014	53,793,431	20,641,857	2.60x
2015	55,141,514	21,645,089	2.54x
2016	57,177,042	21,995,025	2.59x
2017	59,717,388	21,066,325	2.77x
2018[1]	65,727,161[1]	21,121,610	3.11x
2019	60,961,815	21,830,852	2.79x
2020	65,357,382	22,089,191	2.96x

[1]Unaudited.
Source: State of New Mexico Taxation and Revenue Department; City of Santa Fe Finance Director and Treasurer.

City Imposed Gross Receipts Tax Rates

Municipal Gross Receipts Tax Rates. As of July 1, 2018, the total municipal gross receipts taxes in effect in the City are as follows:

Type of Municipal Gross Receipts Tax	Amount	Effective Date	
Municipal Gross Receipts Tax	**0.50%**	**1/82**	**Pledged Revenues**
	0.25%	7/83	Not Pledged Revenues
	0.25%	1/88	Not Pledged Revenues
	0.25%	1/92	Not Pledged Revenues
	0.25%	1/17	Not Pledged Revenues
Municipal Infrastructure Gross Receipts Tax	**0.0625%**	**1/94**	**Pledged Revenues**
	0.0625%	1/99	Not Pledged Revenues
	0.0625%	1/00	Not Pledged Revenues
	0.0625%	1/00	Not Pledged Revenues
Environmental Gross Receipts Tax	0.0625%	1/94	Not Pledged Revenues
Total Municipal Gross Receipts Tax	1.8125%		

Source: New Mexico Department of Finance and Administration

The County presently imposes a gross receipts tax in the amount of 1.500%. Consequently, the combined State (5.125%), County (1.500%) and City (1.8125%) gross receipts tax rate within the City is currently 8.4375%. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS—Pledged Gross Receipts Tax Revenues" herein. Pledged Gross Receipts Tax Revenues consist of the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues, and the Pledged Infrastructure Gross Receipts Tax Revenues.

City of Santa Fe, New Mexico
Total Gross Receipts by Category
(fiscal year)

	2016	2017	2018	2019	2020*
Agriculture, Forestry, Hunting	$ 5,626,747	$ 6,907,668	$ 9,790,323	$ 7,937,841	8,747,711
Mining	1,919,684	548,535	1,324,111	2,310,451	739,926
Utilities	118,735,695	107,951,392	104,119,177	108,956,927	113,699,891
Construction	425,686,284	465,817,799	656,861,335	671,512,887	819,133,560
Manufacturing	164,219,597	161,028,974	164,150,744	170,049,928	195,009,406
Wholesale	208,159,017	232,774,609	292,264,597	322,578,724	359,531,876
Retail	1,907,643,290	1,876,304,238	1,907,706,423	2,034,874,658	2,073,407,651
Transportation and Warehousing	21,225,195	33,175,637	31,512,205	26,190,372	22,640,047
Information	135,184,134	**	**	170,869,570	151,699,446
Finance and Insurance	60,924,330	71,944,362	98,124,023	70,191,010	88,475,752
Real Estate, Rental & Leasing	146,811,485	148,881,021	163,908,734	172,954,083	197,093,416
Prof, Scientific, Technical	415,032,291	587,563,307	589,722,111	575,338,368	792,575,719
Management of Companies	21,232,543	15,069,124	8,559,102	9,806,408	4,555,442
Admin & Support, Waste Mgt.	38,675,527	50,033,467	61,427,383	69,121,656	93,858,517
Educational Services	31,063,849	34,419,082	20,663,708	30,448,355	17,171,513
Health Care & Social Assist.	282,465,032	283,881,331	282,204,062	305,304,451	658,386,191
Arts, Entertainment & Recreation	46,582,022	56,324,501	62,223,886	80,291,174	86,225297
Accommodation and Food	475,899,496	510,656,548	517,490,198	564,534,175	372,239,811
Other Services	535,197,480	542,392,056	448,749,551	464,765,455	540,709,243
Public Administration	1,151,512	1,502,679	1,784,756	1,802,013	2,693,220
Unclassified	57,088,554	22,260,310	16,253,208	29,906,442	26,244,886

Source: New Mexico Department of Taxation and Revenue Report No. 80 ("RP-80").
* Fiscal year 2020 data based on quarterly RP-80; prior years based on fiscal year RP-80s.
** Reliable data for this time period is not currently available.

PRO FORMA ANNUAL DEBT SERVICE SUMMARY

The following table sets forth for each fiscal year from 2022 through 2041the amounts required in each such fiscal year to pay scheduled annual debt service on the Superior Lien Gross Receipts Tax obligations, the Subordinate Tax Obligations and the Bonds, as well as the debt service coverage ratio based on fiscal year 2021 Pledged Gross Receipts Tax Revenues (unaudited).

Fiscal Year Ending June 30	Debt Service on Outstanding Superior Lien Gross Receipts Tax Obligations[1]	Debt Service on Subordinate Lien Gross Receipts Tax Obligations[2][3]	Series 2021 Bonds Debt Service[4]	Net Total Outstanding Debt Service[4][5]	Debt Service Coverage[6]
2022	9,405,313				
2023	5,315,050				
2024	4,411,550				
2025	4,361,550				
2026	4,375,700				
2027	5,107,500				
2028	5,105,700				
2029	5,107500				
2030	2,227,150				
2031	2,225,700				
2032	2,230,900				
2033	2,222,300				
2034	2,230,300				
2035	2,229,050				
2036	1,718,750				
2037	1,714,500				
2038	1,716,750				
2039					
2040					
2041					
Totals	$	$	$	$	

Source: Hilltop Securities Inc.

[1] Superior Lien Gross Receipts Tax Obligations in this table consist of the 2013A Bonds, the 2014 Bonds, the 2016A Bonds, the 2016B Bonds and the 2018A Bonds.

[2] Subordinate Tax Obligations consist of the 2012B Bonds, the 2013B Bonds, the 2016C Bonds, the 2016D Bonds, the 2017 Taxable Bonds, the 2018 Gas Tax/Sub. Lien GRT Bonds, the 2019 Finance Authority Refunding Loan, and the 2019 Finance Authority Parking Improvements Loan.

[3] The 2012B Bonds are also secured by the Pledged Wastewater Revenues and Environmental Services Gross Receipts Tax Revenues, which are not included in the Pledged Revenues securing the Bonds.

[4] Preliminary, subject to change.

[5] Sum of Debt Service on Superior Lien Gross Receipts Tax Obligations, Debt Service on Subordinate Tax Obligations and Debt Service on the Bonds.

[6] Based on total Pledged Gross Receipts Tax Revenues of $_____ received in the fiscal year ended June 30, 2020, and assuming no increase over 2020 receipts. There is no assurance that Pledged Gross Receipts Tax Revenues received in the future will equal the Pledged Gross Receipts Tax Revenues used in the coverage computation. Pledged Gross Receipts Tax Revenues do not reflect the future annual phase-out of the hold harmless distributions that will occur through 2030.

SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDINANCE

Certain provisions of the Bond Ordinance are summarized below. Reference is made to the Bond Ordinance for a full and complete statement of its provisions. Capitalized terms have the definitions set forth in the Bond Ordinance, and are excerpted in Appendix C to this Official Statement.

Special Limited Obligations

The Bonds and all payments of principal, premium, if any, and interest thereon (whether at maturity or on a redemption date), and the obligations of the City for all other payments, fees, costs, interest and expenses of the City under the Bond Ordinance and under the Related Documents (as defined therein, the the Bond Purchase Agreement, the Pricing Certificate, the Continuing Disclosure Undertaking, the Preliminary Official Statement, the Official Statement, and any other document or agreement containing an obligation of the City as may be required in connection with the issuance of the Bonds), will be special limited obligations of the City. The principal of, premium, if any, and interest on the Bonds and all obligations under the Related Documents will be payable solely from the Pledged Revenues, on parity with the lien thereon of outstanding Parity Subordinate Lien Gross Receipts Tax Obligations, and subordinate to the lien thereon of outstanding Superior Lien Gross Receipts Tax Obligations.

Owners of the Bonds and the parties under the Related Documents may not look to any general or other fund of the City for the payment of the principal of or interest on, or the fees, costs and expenses relating to, such obligations, except the designated special funds pledged therefor. Neither the Bonds nor the obligations of the City under the Related Documents will constitute an indebtedness of the City within the meaning of any constitutional, charter or statutory prohibition or limitation, nor will they be considered or held to be general obligations of the City, and the Bonds will recite that they are payable and collectable solely out of the Pledged Revenues, on parity with the lien thereon of outstanding Parity Subordinate Lien Gross Receipts Tax Obligations and subordinate to the lien thereon of outstanding Superior Lien Gross Receipts Tax Obligations, and that the owners of the Bonds and the parties under the Related Documents may not look to any general or other municipal fund for the payment of the principal or interest, as applicable, on the Bonds or for the payment of any amounts owed under the Related Documents.

Nothing in the Bond Ordinance prevents or prohibits the City from applying other funds of the City legally available therefor to the payment or redemption of the Bonds, in its sole discretion.

Establishment and Continuance of Funds and Accounts

In the Bond Ordinance, the City creates, or continues, as applicable, the following special and separate trust funds:

A. *Refunding Account.* The "City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021, Refunding Project Account" is established and will be maintained by the City.

B. *State-Shared Gross Receipts Tax Revenue Fund*. The "City of Santa Fe, New Mexico State-Shared Gross Receipts Tax Revenue Account of the General Fund of the City," is continued to be maintained by the City and deposited in an Insured Bank, into which the City shall deposit the State-Shared Gross Receipts Tax Revenues.

C. *One-Half Percent Municipal Gross Receipts Tax Revenue Fund*. The "City of Santa Fe, New Mexico One-Half Percent Municipal Gross Receipts Tax Revenue Fund," is continued to be maintained by the City and deposited in an Insured Bank, into which the City shall deposit the One-Half Percent Municipal Gross Receipts Tax Revenues.

D. *Infrastructure Gross Receipts Tax Revenue Fund*. The "City of Santa Fe, New Mexico Infrastructure Gross Receipts Tax Revenue Fund," is continued to be maintained by the City and deposited in an Insured Bank, into which the City shall deposit the Infrastructure Gross Receipts Tax Revenues.

E. *Environmental Services Gross Receipts Tax Revenue Fund*. The "City of Santa Fe, New Mexico Environmental Services Gross Receipts Tax Revenue Fund," is continued to be maintained by the

City and deposited in an Insured Bank, into which the City shall deposit the Environmental Services Gross Receipts Tax Revenues.

F. *Bond Fund*. The "City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021, Bond Fund" (hereinafter the "Bond Fund") is created to be maintained by the City and deposited in an Insured Bank.

Administration of Pledged Revenue Funds

So long as any Bonds are outstanding, the Pledged Gross Receipts Tax Revenues shall, immediately upon receipt thereof by the City, be set aside and deposited into the proper funds for each component of the Pledged Gross Receipts Tax Revenues. All money deposited into such funds shall be held separate and apart from the City's general fund and applied only in accordance with the provisions of the Bond Ordinance and any other City ordinance authorizing the issuance of outstanding Obligations payable from the Pledged Gross Receipts Tax Revenues.

So long as any of the Bonds shall be outstanding, either as to principal or interest or both, the following payments shall be made monthly from the Pledged Revenues:

A. *Bond Fund Payments*.

(1) First, as a first charge on the Pledged Revenues, the amounts necessary to pay the Debt Service Requirements on Superior Tax Obligations now outstanding or hereafter issued, or to fund any reserve account as required by the terms of any ordinance authorizing the issuance of Superior Tax Obligations, shall be withdrawn first from the One-Half Percent Municipal Gross Receipts Tax Revenue Fund, and if funds therein are insufficient, then if pledged for such Superior Tax Obligations, from the Infrastructure Gross Receipts Tax Revenue Fund, and, if pledged for such Superior Tax Obligations, from the Environmental Services Gross Receipts Tax Revenue Fund, if funds therein are still insufficient, then from the State-Shared Gross Receipts Tax Revenue Fund in that order or in such other order as permitted or required by the authorizing ordinances, at the time prescribed in such authorizing ordinances.

(2) Second, but subject to and after the withdrawals authorized by the preceding paragraph A(1), so long as any of the Bonds shall be outstanding, the following amounts shall be withdrawn from the One-Half Percent Municipal Gross Receipts Tax Revenue Fund, then from the Infrastructure Gross Receipts Tax Revenue Fund if the moneys in the One-Half Percent Municipal Gross Receipts Tax Revenue Fund are not sufficient, and, if such moneys are still insufficient, then from the State-Shared Gross Receipts Tax Revenue Fund (unless the City determines that such amounts shall be withdrawn from such funds in some other order), and credited to the Bond Fund:

(a) Interest Payments. Monthly, commencing on the first day of the first month following the delivery of the Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of interest on the Bonds then outstanding and monthly thereafter commencing on each interest payment date, one-sixth (1/6th) of the amount necessary to pay the next maturing installment of interest on the outstanding Bonds, and

(b) Principal Payments. Monthly, commencing on the first day of the first month following delivery of the Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of principal on the Bonds then outstanding and monthly thereafter commencing on the first day of the twelfth month preceding each principal payment date, one-twelfth (1/12th) of the amount necessary to pay the next maturing installment of principal on the Bonds.

(3) Third, but concurrently with the payments required by paragraph A(2) of this section, funds remaining in the One-Half Percent Municipal Gross Receipts Tax Revenue Fund, and if the funds therein are insufficient, then funds remaining in the Infrastructure Gross Receipts Tax Revenue Fund, and if the funds therein are insufficient, then funds remaining in the State-Shared Gross Receipts Tax Revenue Fund and, if pledged therefor, funds remaining in the Environmental Services Gross Receipts Tax Revenue Fund, shall be used by the City to pay the Debt Service Requirements of such additional Parity Subordinate Obligations, if any, hereafter authorized to be issued and payable from Pledged Revenues.

If, prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in subparagraphs 2(a) and 2(b) (whichever is applicable) of this paragraph, may be appropriately reduced and the required monthly amounts again shall be so credited to such account commencing on such interest payment date or principal payment date (whichever is applicable).

B. *Debt Service Reserve Fund.* No debt service reserve fund will be created or required for the Bonds.

C. *Termination Upon Deposits to Maturity.* No payment need be made into the Series 2021 Bond Fund if the amount in such fund totals a sum at least equal to the entire amount of the Bonds then outstanding, both as to principal and interest to their respective maturities, and both accrued and not accrued, in which case, moneys in the Series 2021 Bond Fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such as the same accrue and any moneys in excess thereof in the Series 2021 Bond Fund and any other moneys derived from the Pledged Revenues may be used in any lawful manner determined by the City.

D. *Defraying Delinquencies in the Series 2021 Bond Fund; Use of Moneys in the Series 2021 Bond Fund.* If, in any month, amounts in the One-Half Percent Municipal Gross Receipts Tax Revenue Fund are insufficient to make the payments into the Series 2021 Bond Fund required by Paragraph A(2) of above, there shall be withdrawn first from the Infrastructure Gross Receipts Tax Revenue Fund and then from the State-Shared Gross Receipts Tax Revenue Fund, and deposited in the Series 2021 Bond Fund the additional amounts necessary to make the payments into the Series 2021 Bond Fund required by Paragraph A above. The moneys in the Series 2021 Bond Fund shall be used solely and only for the purpose of paying the principal of and the interest on the Bonds issued under this Ordinance; provided, however, that any moneys in the Series 2021 Bond Fund in excess of accrued and unaccrued principal and interest requirements to the respective maturities of the outstanding Bonds may be used in any lawful manner.

E. *Payment of Additional Obligations and Qualified Exchange Agreements.* Either prior to, concurrently with or subsequent to the payments required by Paragraph A above, depending upon whether the additional Obligations are Superior Obligations or Parity Subordinate Obligations or Super Subordinate Obligations (as defined in Section 21 hereof) as provided in this Ordinance, the Pledged Gross Receipts Tax Revenues shall be used by the City for the payment of Debt Service Requirements on additional Obligations, if any, hereafter authorized to be issued and payable from the Pledged Revenues as the same accrue. In the event that such obligations are Parity Subordinate Obligations, the payments of Debt Service Requirements on such additional Obligations shall be made concurrently with the payments required by Paragraphs A(2), A(3) and D of this Section 18 (provided that such payments may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional Obligations). The following amounts required to be paid by the City shall be paid from Pledged Gross Receipts Tax Revenues with the same priority as other payments of Debt Service Requirements on Parity Subordinate Obligations:

(1) Any amount to reimburse or pay a bond insurer or reserve account insurer or guarantor, or to make payments or reimbursements pursuant to another Credit Facility, for payments of Debt Service Requirements made on Parity Subordinate Obligations; and amounts payable to a Qualified

Counterparty under a Qualified Exchange Agreement, excluding Exchange Termination Payments, if such payments are designated in a City ordinance relating to that Qualified Exchange Agreement as having a lien on Pledged Revenues on parity with the lien thereon of Parity Subordinate Obligations;

(2) Reimbursement of any reserve fund Credit Facility obtained for any issue of Parity Subordinate Obligations; and

(3) Cash deposits to any required reserve fund established with respect to any issue of Parity Subordinate Obligations.

Each payment of Debt Service Requirements on Parity Subordinate Obligations shall be transferred to the Paying Agent for payment of Parity Subordinate Obligations, or directly to a Qualified Counterparty, bond insurer, reserve account insurer or guarantor or other provider of a Credit Facility entitled to receive payments on Parity Subordinate Obligations, on or before the due date of such payment.

F. *Payment of Expenses and Certain Obligations which are not Parity Subordinate Obligations.* After and subject to the payments required, and provisions contained in, any of the preceding paragraphs under the heading "Administration of Pledged Revenue Funds", any remaining Pledged Gross Receipts Tax Revenues shall be used, to the extent necessary, for payment of: (i) any other amounts, expenses, fees and interest owed by the City relating to the issuance, delivery, servicing, payment, redemption and refunding of Parity Subordinate Obligations and (ii) other Obligations relating to Parity Subordinate Obligations owed by the City pursuant to the Related Documents, any Qualified Exchange Agreement (excluding Exchange Termination Payments), bond insurance policy, reserve fund insurance policy or similar documents which are not payable pursuant to any other prior paragraph of this Section.

G RESERVED.

H. *Use of Surplus Revenues.* After making the payments required to be made by Paragraphs A through F above, the remaining Pledged Gross Receipts Tax Revenues, if any, may be applied to any other lawful purposes. The One-Half Percent Municipal Gross Receipts Tax Revenues received by the City pursuant to the One-Half Percent Municipal Gross Receipts Tax Ordinance shall be used only for the purposes authorized by that ordinance. The Infrastructure Gross Receipts Tax Revenues received by the City pursuant to the Infrastructure Gross Receipts Tax Ordinance shall be used only for the purposes authorized by that ordinance. The Environmental Services Gross Receipts Tax Revenues received by the City pursuant to the Environmental Services Gross Receipts Tax Ordinance shall be used only for the purposes authorized in that ordinance.

I. *Variable Interest Rate.* In making the computations required by this Section, interest on Obligations which bear a Variable Interest Rate shall be computed: (i) at the actual Variable Interest Rate or Variable Exchange Rate for the computation period, if such rate can be computed exactly, or (ii) if the Variable Interest Rate or Variable Exchange Rate cannot be computed exactly, at the actual rate for the immediately preceding computation period.

General Administration of Funds

The funds and accounts designated in the Bond Ordinance will be administered as follows:

A. *Investment of Money.* Any moneys in any fund designated in the Bond Ordinance may be invested in any Permitted Investments. The obligations so purchased as an investment of moneys in a fund shall be deemed at all times to be part of the fund, and the interest accruing thereon and any profit realized therefrom shall be credited to the fund, and any loss resulting from each investment shall be charged to the fund. The City Finance Director shall present for redemption or sale on the prevailing market any

obligations so purchased as an investment of moneys in the fund whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

B. *Deposits of Funds.* Except for direct investments in Permitted Investments allowed by Paragraph A of this Section, the moneys and investments comprising each of the funds and accounts hereinabove designated in the Bond Ordinance shall be maintained and kept separate from all other funds and accounts in an Insured Bank or Insured Banks. The amounts prescribed shall be paid to the appropriate funds as specified in the Bond Ordinance. Each payment shall be made into the proper bank account and credited to the proper fund not later than the last day designated; provided that when the designated date is a Sunday or a legal holiday, then such payment shall be made on the next preceding secular day. Nothing in the Bond Ordinance shall prevent the establishment of one such bank account or more (or consolidation with any existing bank account), for all of the funds and accounts in the Bond Ordinance.

Additional Superior Obligations and Parity Subordinate Obligations.

A. *Limitations Upon Issuance of Additional Superior Obligations*. No provision of the Bond Ordinance shall be construed in such a manner as to prevent the issuance by the City of additional Obligations payable from Pledged Revenues and constituting a lien upon such revenues prior and superior to the lien of the Bonds on Pledged Revenues. Before any additional Superior Obligations are issued or Obligations refunding outstanding Superior Obligations, the conditions set forth in the ordinances authorizing the issuance of Superior Obligations or refunding Superior Obligations, as applicable, must be satisfied.

Before any additional Parity Subordinate Obligations are actually issued (excluding refunding bonds the proceeds of which are used to refund Superior Obligations as provided in Section 22, but including Parity Subordinate Obligations which are refunding bonds which refund subordinate obligations), the following conditions shall be met:

(i) The Parity Subordinate Obligations must be Obligations; and

(ii) The City shall then be current in all of the deposits required to be made with respect to the Parity Subordinate Obligations (including, if applicable, any obligation to fund any reserve account required by the terms of any ordinance authorizing the issuance of any such Obligations); and

(iii) (a) No additional Parity Subordinate Obligations shall be issued unless the Pledged Gross Receipts Tax Revenues for the Historic Test Period shall have been sufficient to pay an amount representing two hundred percent (200%) of the combined maximum annual Debt Service Requirements coming due in any subsequent Fiscal Year on the then outstanding Superior Obligations, outstanding Parity Subordinate Obligations and the Parity Subordinate Obligations proposed to be issued (excluding the accumulation of any reserves therefor); and

(b) In making the computations required by this subparagraph (iii) other gross receipts tax revenues, including without limitation, the Environmental Services Gross Receipts Tax Revenues, received by the City, whether from distribution by the State or pursuant to gross receipts taxes imposed by the City (other than State-Shared Gross Receipts Tax Revenues) pledged to the Superior Obligations, Parity Subordinate Obligations and the Parity Subordinate Obligations proposed to be issued, may be included only to the extent such gross receipts tax revenues are pledged to a particular series of such outstanding Obligations or proposed Parity Subordinate Obligations and only to the extent of the maximum annual Debt Service Requirements on such outstanding Obligations or proposed Parity Subordinate Obligations.

B. *Super Subordinate Obligations Permitted; Certain Obligations Prohibited.* No provision of this Ordinance shall be construed in such a manner as to prevent the issuance by the City of additional

Obligations payable from the Pledged Revenues with a lien on Pledged Revenues subordinate and junior to the lien of the Bonds thereon, nor to prevent the issuance of Obligations refunding all or part of the Bonds as permitted by the Bond Ordinance.

C. *Variable Interest Rate.* In making the computations required by the provisions of the Bond Ordinance described under the heading "Additional Superior Obligations and Parity Subordinate Obligations" above and the heading "Refunding Bonds" below, Obligations which bear a Variable Interest Rate shall be deemed to bear interest at the maximum rate permitted for those Obligations.

D. *Certificate of City Finance Director.* A written certificate or opinion of the City Finance Director that the Pledged Revenues for the applicable Historic Test Period are sufficient to pay the amounts required as described in the preceding paragraphs shall be required in making a determination that the requirements set forth in this Section have been satisfied and shall be conclusively presumed to be accurate in determining that such requirements have been satisfied.

E. *Bond Anticipation Notes.* Whenever the City shall have authorized the issuance of Superior Obligations or Parity Subordinate Obligations under the Act and the City shall, at the time, be permitted by the laws of the State to issue notes representing loans in anticipation of the sale of such Superior Obligations or Parity Subordinate Obligations ("Bond Anticipation Notes"), the City may by resolution or ordinance authorize the issuance of Bond Anticipation Notes in anticipation of the sale of such Superior Obligations or Parity Subordinate Obligations, provided, however, that before any Bond Anticipation Notes are actually issued, the conditions of paragraph A above shall be met. Bond Anticipation Notes shall not be issued in an amount exceeding the principal amount of the Superior Obligations or Parity Subordinate Obligations in anticipation of the sale of which such notes are proposed to be issued.

For the purposes of determining compliance with this Section, as of the date of issuance of any Bond Anticipation Notes, the aggregate principal amount of all outstanding Bond Anticipation Notes (including such proposed Bond Anticipation Notes) shall never exceed the principal amount of a hypothetical issue of Superior Obligations or Parity Subordinate Obligations which could be issued hereunder having an assumed final maturity of twenty (20) years, bearing an assumed rate of interest equal to the highest rate then borne by any Bond Anticipation Note then outstanding (or, if none, the interest rate borne by the proposed Bond Anticipation Notes to be issued) and having debt service due in each Fiscal Year in approximately equal amounts.

F. *Put Obligations.* In making the computations required by the provisions of the Bond Ordinance described under the heading "Additional Superior Obligations and Parity Subordinate Obligations" above and the heading "Refunding Bonds" below, the principal amount of any Put Obligations to be outstanding in the Fiscal Year when the combined maximum annual Debt Service Requirements come due shall be excluded from the maximum annual Debt Service Requirements only if the Credit Facility providing liquidity or standby purchase support for Put Obligations is rated, on the date the computations are made, "A" or better by Fitch or S&P (if such rating agencies are then rating the Bonds). If there is no Credit Facility for the Put Obligations or the rating requirement for the Credit Facility set forth in the preceding sentence is not satisfied, the principal amount of the Put Obligations to be outstanding in the Fiscal Year when combined maximum annual Debt Service Requirements come due shall be considered in computing maximum annual Debt Service Requirements.

Refunding Bonds

The provisions described under the heading entitled "—Additional Superior Obligations and Parity Subordinate Obligations" are subject to the following exceptions:

A. *Privilege of Issuing Refunding Obligations.* If at any time after the Bonds, or any part thereof, shall have been issued and remain outstanding, the City shall find it desirable to refund any outstanding Parity Subordinate Obligations or other outstanding obligations payable from the Pledged Revenues, such bonds or other obligations, or any part thereof, may be refunded (but only with the consent of the registered owner or owners thereof, unless the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the City's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed (except as provided in Paragraph A under the heading "Additional Superior Obligations and Parity Subordinate Obligations" above, and in Paragraphs B and C under the heading "Refunding Bonds").

B. *Limitations Upon Issuance of Refunding Obligations.* No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on parity with the Bonds herein authorized, unless:

(1) The lien on the Pledged Revenues of the outstanding obligations so refunded is on parity with the lien thereon of the Bonds herein authorized; or

(2) The refunding bonds or other refunding obligations are issued in compliance with the requirements of the Bond Ordinance described in Paragraph A under the heading "Additional Superior Obligations and Parity Subordinate Obligations" above.

C. *Refunding Part of an Issue.* The refunding bonds or other obligations so issued shall enjoy complete equality of lien with the portion of any bonds or other obligations of the same issue which is not refunded, if any there be; and the registered owner or owners of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the registered owner or owners of the bonds or other obligations of the same issue refunded thereby.

D. *Limitations Upon Issuance of any Refunding Obligations.*
Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the City may by ordinance provide, subject to the inclusion of any such rights and privileges designated in Paragraph C immediately above, but without any impairment of any contractual obligations imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including but not necessarily limited to the issue herein authorized). If only a part of the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues are refunded, then such obligations may not be refunded without the consent of the registered owner or owners of the unrefunded portion of such obligations, unless:

(1) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest requirements evidenced by such refunding obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations, or

(2) The refunding bonds or other refunding obligations are issued in compliance with the requirements of the Bond Ordinance described in Paragraph A under the heading "Additional Superior Obligations and Parity Subordinate Obligations" above, or **(3)**
The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

E. *Cross-over Refunding Bonds.* If the refunding bonds to be issued are Cross-over Refunding Bonds, the ordinance providing for the issuance thereof shall provide (1) that until the date on which the principal portion of the related Parity Subordinate Obligations being refunded is to be paid or redeemed from the proceeds of such Cross-over Refunding Bonds, the Cross-over Refunding Bonds shall not be Parity Subordinate Obligations and shall be payable solely from the escrow provided for in the related ordinance, and (2) a certificate of an Independent Accountant shall be prepared to demonstrate the sufficiency of the moneys and investments in the escrow to pay the principal of and interest on the Cross-over Refunding Bonds until the date on which the principal portion of the related Parity Subordinate Obligations being refunded is to be paid or redeemed and to pay or redeem the related Parity Subordinate Obligations being refunded.

Equality of Bonds

The Bonds authorized to be issued by the Bond Ordinance and from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged Revenues, regardless of the time or times of their issuance, it being the intention of the City that there shall be no priority among the Bonds regardless of the fact that they may be actually issued and delivered at different times.

Protective Covenants

Payment of Bonds Authorized by the Bond Ordinance. The City will promptly pay the principal of and the interest on every Bond at the place, on the dates and in the manner specified in the Bond Ordinance and in the Bonds according to the true intent and meaning thereof. Such principal and interest are payable solely from the Pledged Revenues. Nothing in the Bonds, any Qualified Exchange Agreement or the Bond Ordinance will be construed as obligating the City to pay principal, premium, if any, or interest on any of the Bonds from, and the holders of the Bonds and any Qualified Counterparty may not look to, any general or other fund of the City, except those specifically set forth in the Bond Ordinance.

Records. So long as any of the Bonds remain outstanding, proper books of record and account will be kept by the City, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues.

Audits. Within 270 days following the close of each Fiscal Year, the City will cause an audit of the books and accounts to be made by an Independent Accountant, showing the revenues and expenditures of the Pledged Revenues. The City agrees to furnish forthwith a copy of each such audits and reports to the Underwriters upon request. Any registered owner of a Bond shall have the right to discuss, with the Independent Accountant or person making the audit, the report and the contents thereof and to ask for such additional information as he may reasonably require.

Extending Interest Payments. To prevent any accumulation of claims for interest after maturity, the City will not directly or indirectly extend or assent to the extension of the time for the payment of any claim for interest on the Bonds and it will not directly or indirectly be a party to or approve any arrangement for any such extension or for the purpose of keeping alive any of such interest.

Performing Duties. The City will faithfully and punctually perform all duties with respect to the Project and the Bonds required by the Constitution and laws of the State of New Mexico and the ordinances and resolutions of the City including but not limited to the proper segregation of the Pledged Revenues and their application of the respective funds.

City's Existence. The City will maintain its corporate identity and existence as long as the Bonds remain outstanding unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without affecting to any substantial degree the privileges and rights of any registered Owner of any Bonds.

Tax Compliance. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended, including applicable regulations, rulings and judicial decisions (the "Tax Code"), or (ii) be treated other than as bonds to which Section 103(a) of the Tax Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Tax Code. The City further covenants (a) that it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and to remain excluded from gross income for federal income tax purposes, (b) that it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) that it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purposes of the borrowings, (ii) restrict the yield on investment property, (iii) make timely and adequate rebate payments, yield reduction payments or payments of alternative amounts in lieu of rebate to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Tax Code.

Other Liens. Other than the outstanding Superior Lien Gross Receipts Tax Obligations, the outstanding Parity Subordinate Lien Gross Receipts Tax Obligations and the Bonds as recited in the Bond Ordinance, there are no liens or encumbrances of any nature whatsoever on or against the Pledged Revenues. The Bond Ordinance does not prohibit the issuance of additional Superior Lien Gross Receipts Tax Obligations with a lien on the Pledged Revenues superior to the lien thereon of the Bonds, nor the issuance of Parity Subordinate Lien Gross Receipts Tax Obligations with a lien on the Pledged Revenues on parity with the lien thereon of the Bonds.

Duty with Respect to Pledged Revenues. If the statutes or any ordinance which materially affects the Pledged Revenues, or any part of the ordinances, will ever be held to be invalid or unenforceable, the City will immediately take any legally permissible action necessary to produce sufficient Pledged Revenues to comply with the contracted obligations of the Bond Ordinance.

Impairment of Contract. The City agrees that any law or ordinance or resolution of the City in any manner affecting the Pledged Revenues or the Bonds, or otherwise appertaining thereto, will not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or provision has been fully made therefor, or unless the consent of the required percentage of the registered owners of the then Outstanding Bonds is obtained as described under the caption "—Amendment" below.

Notice of Qualified Exchange Agreements to Rating Agencies. The City shall not enter into a Qualified Exchange Agreement which is a Subordinate Lien Gross Receipts Tax Obligation or with respect to any Subordinate Lien Gross Receipts Tax Obligations without first providing notice of such Qualified Exchange Agreement to Fitch and S&P and without first receiving written confirmation from Fitch and S&P that entering into such Qualified Exchange Agreement, in and of itself, would not result in a reduction of the ratings then assigned to the Bonds by Fitch and S&P.

Limitation on Superior Lien Gross Receipts Tax Obligations or Parity Subordinate Lien Gross Receipts Tax Obligations with Variable Interest Rates. The City shall not issue Superior Lien Gross Receipts Tax Obligations or Parity Subordinate Lien Gross Receipts Tax Obligations with a Variable Interest Rate which, at the time of issuance, are assigned a lower rating than the rating then assigned to the Bonds by Fitch or S&P, unless the written consent of such rating agency to a lower rating is obtained prior to issuance of such Superior Lien Gross Receipts Tax Obligations or Subordinate Lien Gross Receipts Tax Obligations.

Defeasance

When all principal and interest in connection with the Bonds have been duly paid, the pledge and lien and all obligations under the Bond Ordinance will thereby be discharged and the Bonds will no longer be deemed to be Outstanding within the meaning of the Bond Ordinance. There will be deemed to be such due payment as to any Bond when the Governing Body has placed in escrow and in trust with a commercial bank or trust company located within or without the State and exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may be initially invested) to meet all requirements of principal and interest as the same become due to its maturity or designated redemption date as of which the City will have exercised or obligated itself to exercise its option to call the Bond. The Federal Securities will become due prior to the respective times on which the proceeds are needed in accordance with a schedule established and agreed upon between the Council and such bank at the time of the creation of the escrow or the Federal Securities will be subject to redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. Federal Securities within the meaning of the Bond Ordinance will include only direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America and which are not callable prior to maturity by the issuer of such obligations.

Events of Default

Each of the following events is declared in the Bond Ordinance to be an "event of default":

(a) *Nonpayment of Principal*. If payment of the principal of any of the Bonds is not made when the same become due and payable at maturity;

(b) *Nonpayment of Interest*. If payment of any installment of interest is not made when the same becomes due and payable;

(c) *Incapable to Perform*. If the City for any reason is rendered incapable of fulfilling its obligations (but not including any obligation of the City under any Qualified Exchange Agreement) under the Bond Ordinance;

(d) *Default of Any Provision*. If the City defaults in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the Bonds or in the Bond Ordinance on its part to be performed (other than defaults described in clause (a), (b) or (c) above), and if such default continues for 30 days after written notice specifying such default and requiring the same to be remedied has been given to the City by the registered owners of 25% in principal amount of the Bonds then outstanding; or

(e) *Bankruptcy or Insolvency of the City*. (i) The City (A) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the City or of all or a substantial part of its property; (B) commences a voluntary case under the Federal Bankruptcy Code; or (C) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency or reorganization; or (ii) a proceeding or case is commenced, without application or consent of the City, in any court of competent jurisdiction, seeking (A) liquidation, reorganization, dissolution, winding-up or adjustment of debts of the City; (B) appointment of a trustee, receiver, custodian, liquidator or the like of the City or of all or a substantial part of its assets; or (C) similar relief in respect of the City under any law relating to bankruptcy, insolvency, reorganization, winding-up or adjustment of debts.

Remedies of Defaults

Upon the happening and continuance of any of the events of default described above under the caption entitled "—Events of Default," then and in every case the registered owner or owners of not less than 25% in principal amount of the Bonds then outstanding, including but not limited to a trustee or trustees

therefor, may proceed against the City, the Council and its agents, officers and employees to protect and enforce the rights of any registered owner of the Bonds under the Bond Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for specific performance of any covenant or agreement contained in the Bond Ordinance or an award or execution of any power granted in the Bond Ordinance for the enforcement of any power, legal or equitable remedy as such registered owner or owners may deem most effectual to protect and enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any registered owner, or to require the Council to act as if it were the trustee of an expressed trust, or any combination of such remedies. All such proceedings at law or in equity will be instituted, had and maintained for the equal benefit of all registered owners of the Bonds then outstanding. The failure of any such registered owner so to proceed will not relieve the City or any of its officers, agents or employees of any liability for failure to perform any duty. Each right or privilege of any such registered owner (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any registered owner will not be deemed a waiver of any other right or privilege thereof.

Duties Upon Default

Upon the happening of any of the events of default as described above, the City, in addition, will do and perform all proper acts on behalf of and for the registered owners of the Bonds to protect and preserve the security created for the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived from the Pledged Revenues, so long as any of the Bonds authorized in the Bond Ordinance, either as to principal or interest, are outstanding and unpaid, will be paid into the proper fund and used for the purposes therein provided. In the event the City fails or refuses to proceed as described in the Bond Ordinance, the registered owner or registered owners of not less than 25% in principal amount of the Bonds then outstanding, after demand in writing, may proceed to protect and enforce the rights of the registered owners as hereinabove provided.

Enforcement

Any registered owner of any one or more of the Bonds may, either by law or in equity, by suit, action, mandamus or other appropriate proceedings in any court of competent jurisdiction enforce the payment of principal of or interest due in connection with any Bond on or after the date on which such payment is due, and may by suit, action, mandamus or other appropriate proceeding or proceedings enforce and compel the performance of such payment in accordance with the provisions of the Bond Ordinance.

Amendment

The Bond Ordinance may be amended or supplemented by ordinance or resolution of the Council without the consent of the owners of the Bonds:

(a) to cure any ambiguity, or to cure, correct or supplement any defect or inconsistent provision contained in the Bond Ordinance;

(b) to grant to the registered owners of the Bonds any additional rights, remedies, powers or authority that may lawfully be granted to them;

(c) to obtain or maintain a rating on the Bonds from any rating agency, which amendment, in the judgment of Bond Counsel, does not materially adversely affect the registered owners of the Bonds;

(d) to achieve compliance with federal securities or tax laws;

(e) to make any other changes in the Bond Ordinance which, in the opinion of Bond Counsel, is not materially adverse to the registered owners of the Bonds; and

(f) to make any other changes in the Bond Ordinance in connection with the execution of a Qualified Exchange Agreement, which changes do not adversely affect the rating(s) assigned to the Bonds by Fitch and S&P (if such rating agencies are then rating the Bonds) and do not adversely affect the registered owners.

Except as provided above, the Bond Ordinance may only be amended or supplemented by ordinance adopted by the Council in accordance with the laws of the State, without receipt by the City of any additional consideration but with the written consent of the registered owners of a majority of the principal amount of the outstanding Bonds which are affected by the amendment or supplement (not including Bonds which are then owned by or for the account of the City); provided, however, that, without first obtaining the consent of the registered owners of all then Outstanding Bonds, no such ordinance will have the effect of permitting:

(a) an extension of the maturity of any Bond;

(b) a reduction in the principal amount of or interest rate on any Bond; or

(c) a reduction of the principal amount of Bonds required for consent to such amendment or supplement.

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THE CITY

General

Located in north-central New Mexico, the City was established in 1610. The City was incorporated in 1891 as a body politic and corporate under the laws of the State and is both the County seat and capital of the State, with approximately 46% of the County population located in the City. The City is situated in the foothills of the Sangre de Cristo Mountains (Rocky Mountain Range) at 7,000 feet elevation and is located approximately 380 miles south of Denver and 320 miles north of El Paso at the junction of Interstate 25 and U.S. Highways 64, 84 and 285.

The Santa Fe economy is diversified, with government, tourism, retail trade and industry being predominant. The State is the largest employer in the City. Most State department headquarters are located in the City. State and federal offices plus County and City offices combine to make the City the governmental center of the State. See "ECONOMIC AND DEMOGRAPHIC INFORMATION—Employment" herein. The central business district and shopping centers contain approximately 450 businesses. The City is also the service center for the northern-central region of the State. There are over 300 art galleries and dealers and over 70 antique dealers in the City, in addition to cultural markets on the Plaza. It is the second largest financial center in the State with ten commercial banks, four savings & loans, approximately 15 financial lending entities and six credit unions.

The City has a unique culture because of its multicultural history and the proximity of numerous Pueblo Indian villages. Indian pottery, weaving, silver and turquoise jewelry, Spanish wood carving and weaving, paintings, glass and a complete range of contemporary arts and crafts are produced and sold. Popular tourist attractions in the City include the oldest church and the oldest house in the United States; numerous buildings listed in the State Register of Historic Sites and Property; the oldest public building in the United States; the Plaza, which was the end of the Camino Real and Santa Fe Trail; and numerous

museums and landmarks, including the Museum of Fine Arts, Museum of International Folk Art, Wheelwright Museum, Georgia O'Keeffe Museum and the Palace of the Governors. The Santa Fe National Forest and the Pecos Wilderness are also major tourist attractions. The Santa Fe Ski Basin and Santa Fe Opera are near the City. The City is a popular on-location site for both television and motion picture filming crews, including two western town movie sets nearby. The Laboratory of Anthropology is also located in the City and is a research center that has conducted thousands of archeological investigations.

A large segment of the City is controlled by historical zoning ordinances designed to maintain the Spanish architecture in the City. Numerous national, regional and State conventions are held in the City annually. Fiesta de Santa Fe, commemorating the return of the City to Spanish rule, is the oldest continuous community celebration in the United States.

St. John's College is a four-year institution of higher learning located in the City. The Santa Fe Community College is a two-year institution of higher learning within the City. See "ECONOMIC AND DEMOGRAPHIC INFORMATION—Education" herein. The New Mexico School for the Deaf and the Institute of American Indian Arts are also located in the City. There are three newspapers, including two daily newspapers, several radio stations, several local television stations and cable television serving the City.

Administration and City Government

The administrative offices of the City are located at 200 Lincoln Avenue, Santa Fe, New Mexico. The Council is the policymaking body of the City and manages and controls the City's finances and property. The eight members of the City Council (the "Council") are elected for staggered four-year terms. The Mayor is the chief executive officer of the City and presiding officer of the Council.

Prior to December 9, 1997, the City operated under a Mayor-Council/City Manager form of government. On December 9, 1997, the City adopted a home-rule charter ("Charter") form of government. The Charter form of government became effective March 15, 1998. Under an amendment to the Charter that became effective on March 12, 2018 (the "Charter Amendment"), the Mayor is authorized to vote on all matters that come before the Council. Under the Charter Amendment the Mayor has authority to appoint, with the consent of the Council, the City Manager, City Attorney, City Clerk and members of advisory commissions; may exercise control over and remove the City Manager, City Attorney and City Clerk; prepare an annual budget and proposed spending priority for review and approval by the City Finance Committee and Council.

The masthead of this Official Statement contains the names of the Mayor and the members of the Council.

Administrative Officers

Under the Charter, the Mayor, subject to the approval of the Council, appoints the City Manager, the City Clerk and the City Attorney. The City Manager hires all officers and employees of the City (except those holding elective office).

Budget

The City's fiscal year begins on July 1 and ends on June 30. The City Manager is responsible for preparing the budget. After reviewing department requests and making adjustments as the City Manager deems necessary, the City Manager recommends to the Finance Committee of the City (the "Finance Committee") approval of the budget as the City Manager envisions the operations of the City for the coming fiscal year. The Finance Committee reviews the City Manager's recommendations, makes appropriate adjustments and recommends to the full Council for adoption of the budget. Finally, the Council reviews and adopts the budget. Prior to June 1, the City is required to submit a working draft of the budget to the

Local Government Division of the State Department of Finance and Administration (the "Finance Department") for its approval. By July 20 of the new fiscal year, the City submits the budget to the Finance Department. Prior to the first Monday in September, the Finance Department must certify the budget with whatever adjustments it deems necessary to comply with State statutes. At mid-year, the City performs a budget review and adjusts the budget to reflect current conditions. Approval of the Finance Department is required for all budget increases, cash transfers between funds and budget transfers between departments within a fund or between funds. If adequate fund balances are available from the prior year, the City budgets expenditures in excess of revenues. The City budget is prepared using an estimate of anticipated revenues and expenditures.

Services

The City provides traditional services such as public safety and recreation, public works, highways and streets as well as water and sewer services and refuse collection. In addition, the City operates parking facilities, convention facilities, a golf course and an industrial park.

Employees

The City employs approximately 1,800 persons, approximately 1,600 of whom are full-time employees, and approximately 200 of whom are part-time employees, including 9 elected officials.

Retirement Plans

Public Employees Retirement Association

Substantially all of the City's full-time employees participate in a public employee retirement system authorized under the Public Employees Retirement Act (Chapter 10, Article 11 NMSA 1978). The Public Employees Retirement Association ("PERA") is the administrator of the plan, which is a cost-sharing multi-employer defined benefit retirement plan. The plan provides retirement, disability benefits, survivor benefits, and cost-of-living adjustments to plan members and beneficiaries. PERA issues a separate, publicly available financial report that includes financial statements and required supplementary information. The report may be obtained by writing to PERA, P. O. Box 2123, Santa Fe, New Mexico 87504-2123.

The contribution requirements of defined benefit plan members and the City of Santa Fe are established in state statute under Chapter 10, Article 11, NMSA 1978. The contribution requirements may be amended by acts of the legislature. For employer and employee contribution rates in effect for FY2020 for the various PERA coverage options, for both Tier I and Tier II, see the tables available in the PERA FY2020 annual audit report available at www.nmpera.org. The PERA coverage options that apply to the City are the Municipal General Division, Municipal Police Division and Municipal Fire Division. Statutorily required contributions to the pension plan from the City were $_____ for the fiscal year ended June 30, 2020, The employer paid member benefits that were "picked up" by the employer were $_____ for the fiscal year ended June 30, 2020.

On June 25, 2012, the Governmental Accounting Standards Board approved Statement No. 68 which requires governments providing defined benefit pensions to recognize their long-term obligation for pension benefits as a liability for the first time, and to more comprehensively and comparably measure the annual costs of pension benefits. Statement No. 68 requires cost-sharing employers, such as the City, to record a liability and expense equal to their proportionate share of the collective net pension liability and expense for the cost-sharing plan. Statement No. 68 is effective for fiscal years beginning after June 15, 2014.

Actuarial information is shown below:

State of New Mexico Public Employees Retirement Fund
Summary Information as of June 30, 2020

Membership[(1)]	111,326
Actuarial Information	
Actuarial Accrued Liability[(2)]	$22,388,870,869
Actuarial Value of Assets	$15,737,838,938
Unfunded Actuarial Accrued Liability	$6,651,031,931

Source: PERA Annual Actuarial Valuation (June 30, 2017)
(1) Includes active, inactive and retired members from all divisions.
(2) Includes accrued liability of both the retired and active members.

In Fiscal Year 2013, PERA reported an Unfunded Actuarial Accrued Liability ("UAAL") of $4.6 billion, approximately $1.6 billion less than the previous fiscal year. The decline in the UAAL was the result of comprehensive pension reform legislation proposed by the PERA Board and enacted by the State Legislature during the 2013 legislative session. Senate Bill 27 significantly amended the Public Employees' Retirement Act by creating a new tier of reduced benefits for new hires. The law reduces the cost of living adjustments for all current and future retirees; delays the application of cost of living adjustments for certain future retirees; suspends the cost of living adjustments for certain return-to-work retirees; provides for an increase in the statutory employee contribution rate of 1.5% (subject to certain requirements) for employees earning $20,000 or more in annual salary; provides for an increase in the statutory employer contribution of 0.4% beginning in Fiscal year 2015; increases age and service requirements; lengthens the base average salary calculation amount from three to five years for future employees; increases the vesting period for employees from five to eight years for most members; lowers the annual service credit by 0.5% for most members; and makes several other clarifying and technical changes. Also as a result of the passage of pension reform legislation, PERA's 30 year projected funded ratio increased from 29% to 108.8%. PERA saw a further $300 million decline in the UAAL, and increase in the 30-year projected funded ratio to 133% at the end of Fiscal Year 2014. The improvement in Fiscal Year 2014 was due largely to excess investment returns. PERA's Fiscal Year 2014 return was 17.03%, higher than the 7.75% return assumption.

In Fiscal Year 2020, PERA reported an audited Net Pension Liability ("NPL") of $7,448,652,567, using methods and assumptions required under GASB Statement No. 67, the reporting standard applicable to pension plans. PERA annually prepares a "Schedule of Employer Allocations and Pension Amounts" that provides employer participants the information they need to comply with GASB Statement No. 68, including each employer's proportionate share of the NPL. This schedule is audited by PERA's independent auditors and is reviewed by the New Mexico Office of the State Auditor.

New Mexico Retiree Health Care Authority

The State of New Mexico Retiree Health Care Act (the "Health Care Act") provides comprehensive core group health insurance for persons who have retired from certain public services in New Mexico. The purpose of the Health Care Act is to provide eligible retirees, their spouses, dependents, and surviving spouses and dependents with health insurance consisting of a plan, or optional plans, of benefits that can be purchased by funds deposited by the employer into the Retiree Health Care Fund and by co-payments or out-of-pocket payments of eligible retirees. Each participating retiree pays a monthly premium for the medical plus basic life plan. Each participating employer makes contributions to the Fund in the amount of 2.0% to 2.5% of each participating employee's annual salary. Each participating employee contributes to the Fund an employee contribution equal to 1.25% of the employee's annual salary. The City remitted $_____ in Fiscal Year 2020, $_____ in Fiscal Year 2019, and $_____ in Fiscal Year 2018, which equaled the required contributions for each year.

In June 2015, the Governmental Accounting Standards Board approved Statement No. 75 which requires governments providing other post-employment benefits ("OPEB") to recognize their long-term obligation for those benefits as a liability for the first time, and to more comprehensively and comparably measure the annual costs of OPEB. Statement No. 75 requires governmental participants in cost-sharing multi-employer plans, such as the City, to record a liability and expense equal to their proportionate share of the collective net OPEB liability and expense for the cost-sharing plan. Statement No. 75 became effective for fiscal years beginning after June 15, 2017. As reported in the City's fiscal year 2020 audited financial statements, the City's proportionate share of OPEB liability was $_____ at June 30, 2020.

Summary of Indebtedness

The table below summarizes all outstanding general obligation and revenue bond obligations of the City as of August 1, 2021:

Category of Indebtedness	Original Principal Amount	Interest Rate	Date of Final Maturity	Amount Outstanding
Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2010B*	$ 10,490,000	4.00%-5.00%	6/1/26	$ 4,860,000*
General Obligation Bonds, Series 2010	10,300,000	2.50%-4.00%	8/1/29	5,105,000
Gross Receipts Tax Improvement & Refunding Revenue Bonds, Series 2012A*	32,725,000	3.00%-5.00%	6/1/26	10,735,000*
Gross Receipts Tax (Subordinate Lien)/Wastewater System Refunding Revenue Bonds, Series 2012B	14,280,000	2.00%-5.00%	6/1/22	1,960,000
Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2013B	13,780,000	3.00%-5.00%	6/1/36	11,245,000
General Obligation Bonds, Series 2013	12,000,000	1.75%-4.00%	8/1/32	7,790,000
Gross Receipts Tax Improvement Revenue Bonds, Series 2014	15,460,000	2.25%-5.00%	6/1/29	14,615,000
General Obligation Bonds, Series 2014	5,800,000	3.00%-4.00%	8/1/34	4,275,000
Water Utility System Refunding Revenue Bonds, Series 2016	36,665,000	2.00%-5.00%	6/1/39	32,145,000
Senior Lien Gross Receipts Tax Refunding Bonds, Series 2016A	6,700,000	5.00%	6/1/23	2,140,000
Senior Lien Gross Receipts Tax Refunding Bonds, Series 2016B	21,900,000	2.00%-5.00%	6/1/35	10,225,000
Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016C	9,480,000	5.00%	6/1/24	475,000
Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016D	2,020,000	2.00%-5.00%	6/1/28	1,510,000
Taxable Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2017	4,530,000	1.42%-3.56%	6/1/33	3,555,000
Gasoline Tax/Subordinate Lien Gross Receipts Tax Improvement Revenue Bonds, Series 2018	10,290,000	3.00%-5.00%	6/1/28	7,745,000
Senior Lien Gross Receipts Tax Improvement Bonds, Series 2018A	20,000,000	5.00%	6/1/38	18,975,000
General Obligation Refunding Bonds, Series 2019	5,445,000	5.00%	8/1/29	4,525,000
Total	$230,865,000			$141,880,000

*To be refunded with proceeds of the Bonds.

In addition to its outstanding revenue and general obligation bonds referenced above, the City has loans payable to the New Mexico Finance Authority, on a subordinate basis by various revenue sources. The table below summarizes the outstanding loans of the City as of August 1, 2021.

Category of Indebtedness	Original Principal Amount	Interest Rate	Date of Final Maturity	Amount Outstanding
Convention Center	$33,790,000	3.00%-5.00%	June 2035	$30,945,000
Drinking Water Loan (Buckman DW-2)	15,150,000	1.75%*	June 2029	9,069,552
College Acquisition(1)(2)	29,615,000	4.19%-6.07%	June 2036	24,140,000
Drinking Water Loan (Buckman DW-4)	2,525,000	1.75%*	June 2035	2,080,017
Fire Equipment	917,815	0.84%-1.63%	May 2025	815,340
Recycle Carts	1,300,582	0.96%-2.34%	May 2024	1,047,049
Transit Buses	3,500,000	1.46%-3.12%*	June 2026	2,436,749
Taxable College Acquisition Refunding Loan(1)	23,705,000	2.36%-3.92%	June 2039	21.905,000
Taxable Parking Improvements Loan(1)	1,575,000	1.91%-2.15%	June 2027	1,195,000
Total Loan Obligations	$223,078.497			$93,644,707

(1) Secured by a Subordinate lien on Pledged Gross Receipts Tax Revenues.
(2) College Acquisition debt was paid from a lease with Laureate Education. The City is evaluating alternative uses of the asset and sources of revenue to pay debt service in connection with this financing.
(3) Secured by the .25% Municipal Local Option Gross Receipts Tax.
* Interest rate does not include NMFA administration fee.

FINANCIAL INFORMATION CONCERNING THE CITY

The City's Accounting and Budgetary Practices and Procedures

Receipts and disbursements of the City are recorded on a modified accrual basis of accounting. Under this method of accounting, as a general rule, revenue which is available for financing of current appropriations is recognized when received or when susceptible to accrual, and expenditures benefiting more than one year are recorded when encumbered. Exceptions to this general rule include: (1) disbursements for some inventory items are recorded at the time of purchase, (2) prepaid expenses benefiting more than one year are recorded in the year of payment and (3) property taxes are recognized as received.

Governmental Accounting Standards Board Statement

The City's financial statements present the government as an entity for which the City is considered to be financially accountable. The City has no component units or blended component units that are legally separate entities.

During the year ended June 30, 2016, the City adopted GASB Statements Nos. 72, *Fair Value Measurement and Application,* a portion of No. 73 *Accounting and Financial Reporting for Pensions and Related Assets that are not within the Scope of GASB Statement 68 and Amendments to Certain Provisions of GASB Statements 67 and 68,* No. 76, *The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments,* No. 79, *Certain External Investment Pools and Pool Participants* and No. 82 *Pension Issues – an amendment of GASB Statement No. 67, No. 68, and No. 73.* These five Statements were required to be implemented by June 30, 2016.

GASB Statement No. 72 addresses accounting financial reporting issues related to fair value measurements. The definition of *fair value* is price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. It provides guidance for determining a fair value measurement for financial reporting purposes and for applying fair value to certain investments and disclosures related to all fair value measurements. The requirements of GASB 72 enhances comparability of financial statements among governments by requiring measurements of certain assets and liabilities at fair value using a consistent and more detailed definition of fair value and accepted valuation techniques. This Statement also will enhance fair value application guidance and related disclosures in order to provide information to financial statement users about the impact of fair value measurements on government's financial position.

GASB Statement No. 82 addresses certain issues that have been raised with respect to Statement No. 67, *Financial Reporting for Pension Plans,* No. 68, *Accounting and Financial Reporting for Pensions,* and No. 73, *Accounting and Financial Reporting for Pensions and Related Assets That are Not within the Scope of GASB Statement 68, and Amendments to Certain Provisions of GASB Statements 67 and 68.* Specifically, this GASB 82 addresses issues regarding (1) the presentation of payroll-related measures in required supplementary information; (2) the selection of assumptions and the treatment of deviations from the guidance in an Actuarial Standard of Practice for financial reporting purposes, and; (3) the classification of payments made by employers to satisfy employee (plan member) contribution requirements. Its objective is to address certain issues that have been raised with respect to Statements No.67, *Financial Reporting for Pensions Plans,* No. 68, *Accounting and Financial Reporting for Pensions,* and No. 73, *Accounting and Financial Reporting for Pensions and Related Assets That Are Not within the Scope of GASB Statement 68, and Amendments to Certain Provisions of GASB Statement 67 and 68.* Specifically, the statement addresses issues regarding (1) the presentation of payroll-related measures in required supplementary information; (2) the selection of assumptions and treatment of deviations from the guidance in an Actuarial Standard of Practice for financial reporting purposes, and; (3) the classification of payments made by employers to satisfy employee (plan member) contribution requirements.

The government-wide financial statements (i.e., the statement of net assets and the statement of changes in net assets) report information on all of the non-fiduciary activities of the primary government and its component units. For the most part, the effect of interfund activity has been removed from these statements. Governmental activities, which normally are supported by taxes and intergovernmental revenues, are reported separately from business-type activities, which rely to a significant extent on fees and charges for support. Likewise, the primary government is reported separately from the legally separate component unit for which the primary government is financially accountable.

Operations of the General Fund

The following sets forth a comparative summary of the operations of the General Fund of the City for the years ended June 30, 2013 through June 30, 2017. The General Fund is not pledged to the payment of principal of or interest on the Bonds. Information regarding the operations of the General Fund is presented only to summarize the City's operating history. For a more detailed discussion of the City's results of operations for the fiscal year ended June 30, 2017, see "Management's Discussion and Analysis" included in the attached financial statements.

GENERAL FUND REVENUES AND EXPENDITURES HISTORY[1]

Revenues:	**2016**	**2017**
Taxes:		
Gross Receipts	$55,427,303	$57,939,139
Motor	407,436	408,485
Property	3,540,610	6,827,420
Franchise	3,650,602	4,090,448
Licenses and permits	2,760,196	3,533,969
Intergovernmental revenues	121,698	63,430
Fees and charges for services	10,935,407	10,049,108
Fines and forfeitures	373,917	304,712
Rents, royalties and concessions	26,448	23,189
Investment income (loss)	61,850	21,102
Other Revenues	58,869	113,885
Total Revenues	77,364,336	83,374,887
Expenditures:		
Current:		
General government	19,806,687	19,398,901
Public safety	33,986,877	38,588,216
Public works	2,985,705	4,152,864
Community development	4,985,731	4,671,829
Culture and recreation	7,583,676	8,116,334
Education	2,600,930	2,619,374
Total current expenditures	71,949,606	77,547,518
Capital outlay:		
General government	86,578	182,505
Public safety	185,915	1,111,775
Public works	35,445	18,461
Community development	1,038	11,220
Culture and recreation	129,043	170,166
Education	5,709	2,581
Total capital outlay expenditures	443,728	1,496,708
Total expenditures	72,393,334	79,044,226
Excess (deficiency) of revenues over expenditures	4,971,002	4,330,661
Other financing sources (uses):		
Sale of capital assets	-	
Transfers in	6,567,805	459,980
Transfers out	(5,664,434)	(12,337,130)
Total other financing sources (uses)	903,371	(11,877,150)
Net change in fund balances	5,874,373	(7,546,489)
Fund balances, beginning of year	15,073,816	20,948,189
Prior period adjustment	-	838,940
Fund balances, beginning of year as restated	-	21,787,129
Fund Balances, end of year	**$20,948,189**	**$14,240,640**

Source: City of Santa Fe, Comprehensive Annual Financial Reports, 2016-2017

[1] Due to changes in the presentation and categories of Expenditures beginning in Fiscal Year 2018, General Fund Revenues and Expenditures for Fiscal Years 2018 through 2020 appear in a separate table on the following page of this Official Statement.

GENERAL FUND REVENUES AND EXPENDITURES HISTORY, continued[1]

Revenues:	**2018**	**2019**	**2020**
Taxes:			
Gross Receipts	$64,915,409	$69,349,581	
Motor	416,819	451,466	
Property	9,044,751	8,351,923	
Franchise	4,378,595	4,831,198	
Licenses and permits	4,180,409	3,830,105	
Intergovernmental revenues	830,182	658,457	
Fees and charges for services	11,029,389	8,184,123	
Fines and forfeitures	241,812	220,332	
Rents, royalties and concessions	24,117	54,145	
Investment income (loss)	17,555	135,205	
Other Revenues	196,673	15,494	
Total Revenues	95,275,711	96,082,029	
Expenditures:			
Current:			
Salaries, Wages and Fringe Benefits	63,631,053	63,349,960	
Contractual Services and Utilities	8,461,617	6,562,797	
Repairs and Maintenance	626,908	723,530	
Supplies	2,481,634	2,280,306	
Capital Outlay- Inventory-Exempt Items	859,766	413,363	
Insurance Premiums	3,097,678	3,065,785	
Claims and Judgments	--	--	
Other	9,126,687	5,965,642	
Total current expenditures	88,285,343	82,361,383	
Capital outlay	1,026,742	1,041,843	
Debt Service:			
Principal Payments	--	--	
Interest	--	--	
Bond Issuance Costs	--	--	
Total expenditures	89,312,085	83,403,226	
Excess (deficiency) of revenues over expenditures	5,963,626	12,678,803	
Other financing sources (uses):			
Transfers in	1,658,068	1,070,509	
Transfers out	(6,739,886)	(4,500,562	
Proceeds from Sale of Capital Assets	100	44,722	
Bond Proceeds	--	--	
Premiums on Bond Issues	--	--	
Total Other Financing Sources (Uses)	(5,081,718)	(3,385,331)	
Net change in fund balances	881,908	9,293,472	
Fund balances, beginning of year	14,240,640	15,122,548	
Fund Balances, end of year	**$ 15,122,548**	**$24,416,020**	

Source: City of Santa Fe, Comprehensive Annual Financial Reports, 2018-2020

[1] Due to changes in the presentation and categories of Expenditures beginning in Fiscal Year 2018, General Fund Revenues and Expenditures for Fiscal Years 2016 and 2017appear in a separate table on the preceding page of this Official Statement.

ECONOMIC AND DEMOGRAPHIC INFORMATION

The statistics set forth below have been obtained from the referenced sources. The City has assumed that the information obtained from sources other than the City is accurate without independently verifying it. Historical figures provided under this caption have not been adjusted to reflect economic trends such as inflation. The following information is not to be relied upon as a representation or guarantee of the City.

Population

Population Growth

Census Year	City	County	State
2010	81,030	144,170	2,064,756
2011	81,621	145,378	2,077,756
2012	82,022	146,157	2,083,784
2013	82,339	146,754	2,085,193
2014	82,594	147,329	2,083,024
2015	82,880	147,708	2,080,328
2016	83,287	148,651	2,081,015
2017	83,776	148,750	2,088,070
2018	83,875	148,758	2,093,000
2019	84,612	150,358	2,097,000
2020			

Source: City of Santa Fe Audited Financial Statement for Fiscal Year 2019.

The following table provides an estimated age profile of the City's 2016 population from the U.S. Census Bureau's 2016 American Community Survey, and comparative data for the County, State and the United States:

Percent of Population

Age Group	City of Santa Fe	New Mexico	United States
0 – 19	22.10%	27.10%	26.10%
20 - 44	28.50%	32.30%	33.50%
45 - 64	28.30%	25.90%	26.30%
65+	21.10%	14.70%	14.10%

Source: City of Santa Fe Audited Financial Statements for Fiscal Year Ending June 30, 2019

The total population of the City grew by 13.3% over the decade of the 1980s (1980-1990), by 11.3% over the decade of the 1990s (1990-2000), and by 9.2% between 2000 and 2010, and by 23.4% between 2010 and 2015 which was largely due to annexation of unincorporated areas of Santa Fe County into the City.

Income

The following table sets forth the per-capita income, based on the total gross personal income divided by the population, for the Santa Fe MSA, the State and the United States. Although the State per capita income remains lower than the per capita income of the United States as a whole, the Santa Fe MSA per capita income is higher than the per capita income of the State and the United States.

Per Capita Personal Income

Year	Santa Fe MSA	New Mexico	United States
2019	$60,276	$43,803	$56,469
2018	58,696	41,650	54,601
2017	54,062	39,727	52,114
2016	53,560	39,008	50,004
2015	51,086	38,306	48,998
2014	49,647	37,196	47,050
2013	46,545	35,090	44,826
2012	47,558	35,723	44,588
2011	46,495	34,998	42,713

Source: U.S. Bureau of Economic Analysis.

The following table displays the number of occupations by category and year in the Santa Fe MSA.

Employment By Occupational Category- Santa Fe MSA

Occupation	2016	2017	2018	2019	2020
All Occupations	61,710	61,340	61,590	62,160	57,600
Management	3,880	3,660	3,660	3,680	3,610
Business and Financial Operations	3,960	3,880	4,030	4,280	4,310
Computer and Mathematical	1,290	1,370	1,530	1,580	1,460
Architecture and Engineering	770	780	790	760	710
Life, Physical and Social Science	770	800	830	810	850
Community and Social Service	1,260	1,290	1,290	1,320	1,170
Legal	820	780	760	810	820
Educational, Instructional and Library	3,400	3,630	3,680	3,640	3,540
Arts, Design, Entertainment, Sports, and Media	1,080	1,070	780	1,000	990
Healthcare Practitioners and Technical	3,000	2,980	3,170	3,170	3,000
Healthcare Support	1,550	1,580	1,540	2,740	2,180
Protective Service	2,210	2,100	2,150	2,220	1,780
Food Preparation and Serving Related	7,560	7,430	7,730	7,830	6,300
Building and Grounds Cleaning and Maintenance	2,300	2,420	2,500	2,830	2,490
Personal Care and Service	3,210	3,380	3,190	1,400	1,240
Sales and Related	7,240	6,780	6,570	6,610	6,190
Office and Administrative Support	9,450	9,580	9,620	8,700	8,250
Farming, Fishing and Forestry	40	40	*	*	70
Construction and Extraction	2,520	2,480	2,530	2,550	2,660
Installation, Maintenance and Repair	1,840	1,840	1,870	2,010	1,980
Production	1,290	1,320	1,310	1,180	1,190
Transportation and Material Moving	2,270	2,150	2,060	3,000	2,810

Source: U.S. Bureau of Labor Statistics.

The following table sets forth the average annual employment figures for the Santa Fe MSA.

	2016	2017	2018	2019	2020
Labor Force	74,060	74,071	74,640	74,198	71,346
Employed	7,0098	70,347	71,548	71,109	65,455
Unemployed	3,962	3,724	3,092	3,089	5,891
Unemployment Rate	5.3%	5.0%	4.1%	4.2%	8.3%

Source: U.S. Bureau of Labor Statistics.

Annual Average Unemployment Per Year

Calendar Year	Santa Fe MSA	New Mexico	United States
2020	8.3%	8.5%	8.1%
2019	4.2%	5.0%	3.7%
2018	4.1%	4.9%	3.9%
2017	5.0%	6.1%	4.4%
2016	5.3%	6.8%	4.9%
2015	5.4%	6.6%	5.3%
2014	5.4%	6.6%	6.2%
2013	5.6%	6.9%	7.4%
2012	5.6%	7.0%	8.1%
2011	6.0%	7.2%	8.9%

Source*:* U.S. Bureau of Labor Statistics.

Santa Fe MSA--Major Employers

Employer	Business Type	Number of Employees
State of New Mexico	Government	25,984
Christus St. Vincent Hospital	Health Care	2,274
Santa Fe Public Schools	Education	1,913
City of Santa Fe	Government	1,472
WalMart	Retail	1,250
Santa Fe Community College	Education	950
County of Santa Fe	Government	919
Santa Fe Opera	Fine Arts	791
Albertson's	Retail	650
Peters Corporation	Fine Arts	518
Total Top 10		36,721

Source: New Mexico Department of Labor, 2019

Construction Permits

Calendar Year	Issued	Value
2011	4,161	105,449,986
2012	4,751	179,671,299
2013	5,068	125,419,309
2014	4,688	113,830,876
2015	4,771	106,656,654
2016	4,955	162,954,112
2017	4,904	150,608,250
2018	6,337	245,227,939
2019	6,801	289,241,144
2020		

Source: City of Santa Fe Building Inspector's Office (estimated).

Education

Santa Fe Public Schools

The Santa Fe Public School District is a political subdivision of the State organized for the purpose of operating and maintaining an education program for school-age children residing within its boundaries. Currently the District operates and maintains a variety of facilities in meeting its obligation to provide an educational program within its boundaries that cover 1,016 square miles with an estimated population of 125,000. The District is the 5th largest school district in the State with a 2017-2018 120-day enrollment of 12,983 students. The District operates 31 school sites, including 21 elementary schools, 6 middle schools, 3 high schools, and 1 international magnet school. These schools include 5 community schools, 4 charter schools, 1 academy, and 1 early childhood center. The District's educational program includes vocational, technical, and occupational training.

Santa Fe Community College

Santa Fe Community College is a co-educational community college offering 2-year Associate of Arts, Associate of Science, and Associate of Applied Science degrees. The Community College occupies 366 acres within the County of Santa Fe, with a faculty of approximately 395 (full and part-time), serving approximately 5,800 students (credit enrollment).

St. John's College

St. John's College is a private, co-educational 4-year liberal arts college. The College's undergraduate program is an all-required course of study based on the classic works of western civilization. The College has an enrollment of approximately 475 students, with a faculty-student ratio of 1:8. The College offers a graduate degree program leading to a Master of Arts in Liberal Arts degree.

New Mexico School for the Deaf

The New Mexico School for the Deaf is a state institution serving New Mexico children with permanent hearing loss from birth through age 22. The School provides a rigorous academic program that focuses on language and literacy development and critical thinking skills. The School's curriculum conforms to New Mexico state standards and benchmarks. The School's 30-acre campus is located in the City of Santa Fe and provides housing for up to 96 residential students.

LITIGATION AND INSURANCE

At the time of the original delivery of the Bonds, the City will deliver a no-litigation certificate to the effect that no litigation or administrative action or proceeding is pending or, to the knowledge of the appropriate City officials, threatened, restraining or enjoining, or seeking to restrain or enjoin, the issuance and delivery of the Bonds, the levy or collection of the Pledged Revenues, the effectiveness of the Bond Ordinance, or contesting or questioning the proceedings and authority under which the Bonds have been authorized and are to be issued, sold, executed or delivered, or the validity of the Bonds.

The City maintains insurance on its assets and operations and believes its coverages are customary for similar entities insuring similar operations and assets. The City maintains a risk management reserve.

TAX EXEMPTION

General

In the opinion of Modrall, Sperling, Roehl, Harris & Sisk, P.A., Bond Counsel, to be delivered at the time of original issuance of the Bonds, under existing laws, regulations rulings and judicial decisions,

and assuming compliance with covenants described herein, interest on Bonds is excludable from gross income for federal income tax purposes and is not an item of tax preference under Section 57 of the Code (as defined below) for purposes of the federal alternative minimum tax imposed on individuals. Bond Counsel is also of the opinion, based on existing laws of the State of New Mexico as enacted and construed, that interest on the Bonds is exempt from all taxation by the State of New Mexico or any political subdivision thereof.

The Internal Revenue Code of 1986, as amended (the "Code"), imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal tax purposes of interest on obligations such as the Bonds. The City has made various representations and warranties with respect to, and has covenanted in the Bond Ordinance and other documents, instruments and certificates to comply with the applicable provisions of the Code to assure that interest on the Bonds will not become includible in gross income. Failure to comply with these covenants or the inaccuracy of these representations and warranties may result in interest on the Bonds being included in gross income from the date of issue of the Bonds. The opinion of Bond Counsel assumes compliance with the covenants and the accuracy of such representations and warranties.

Although Bond Counsel will render an opinion that interest on the Bonds is excludable from gross income for federal income tax purposes, the accrual or receipt of interest on the Bonds may otherwise affect the federal income tax liability of the recipient. The extent of these other tax consequences will depend upon the recipient's particular tax status or other items of income or deduction. Bond Counsel expresses no opinion regarding any such consequences. Before purchasing any of the Bonds, potential purchasers should consult their tax advisors as to the tax consequences of purchasing or owning the Bonds.

The opinions expressed by Bond Counsel are based upon existing law as of the date of issuance and delivery of the Bonds, and Bond Counsel expresses no opinion as of any date subsequent thereto or with respect to any pending legislation.

From time to time, there are legislative proposals in Congress that, if enacted, could alter or amend the federal tax matters referred to above or adversely affect the market value of the Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether if enacted, it would apply to Bonds issued prior to enactment. Each purchaser of the Bonds should consult his or her own tax advisor regarding any pending or proposed federal tax legislation. Bond Counsel expresses no opinion regarding any pending or proposed federal tax legislation.

Internal Revenue Service Audit Program

The Internal Revenue Service (the "Service") has an ongoing program auditing tax-exempt obligations to determine whether, in the view of the Service, interest on such tax-exempt obligations is includable in the gross income of the owners thereof for federal income tax purposes. No assurances can be given as to whether the Service will commence an audit of the Bonds. If an audit is commenced, under current procedures the Service will treat the City as the taxpayer and the Bond owners may have no right to participate in such procedure. None of Municipal Advisor, the Underwriters, or Bond Counsel is obligated to defend the tax-exempt status of the Bonds. The City has covenanted in the Bond Ordinance not to take any action that would cause the interest on the Bonds to become includable in gross income except to the extent described above for the owners thereof for federal income tax purposes. None of the City, the Municipal Advisor, the Underwriters, or Bond Counsel is responsible to pay or reimburse the costs of any Bond owner with respect to any audit or litigation relating to the Bonds.

Original Issue Discount

The Bonds may be offered at a discount ("original issue discount") equal generally to the difference between public offering price and principal amount. For federal income tax purposes, original issue

discount on a bond accrues periodically over the term of the bond as interest. The amount of original issue discount deemed received by the holder is excludable from gross income of the holder for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals. The accrual of original issue discount increases the holder's tax basis in the bond for determining taxable gain or loss from sale or from redemption prior to maturity. Holders of Bonds offered at an original issue discount should consult their tax advisors for an explanation of the accrual rules.

Original Issue Premium

The Bonds may be offered at a premium ("original issue premium") over their principal amount. For federal income tax purposes, original issue premium is amortizable periodically over the term of a bond through reductions in the holders' tax basis in the bond for determining taxable gain or loss from sale or from redemption prior to maturity. Amortizable premium is accounted for as reducing the tax-exempt interest on the bond rather than creating a deductible expense or loss. Holders of Bonds offered at an original issue premium should consult their tax advisors for an explanation of the amortization rules.

FINANCIAL STATEMENTS

Appendix A contains excerpts from Audited Financial Statements of the City for the fiscal year ended June 30, 2020. The audited financial statements referred to above have been audited by CliftonLarsonAllen LLP, New Mexico, independent certified public accountants (the "Auditor"), whose report with respect thereto (the "Report") also appears in Appendix A hereto. The Report states that, in the Auditor's opinion,

> [E]xcept for the effects of the matters described in the "Basis for Qualification on Governmental Activities, Business-Type Activities, Major Enterprise Funds and Aggregate Remaining Fund Information paragraph, the financial statements referred to [in the Report] present fairly, in all material respects the financial position of the governmental activities, the business-type activities and Major Enterprise Funds of the City of Santa Fe as of June 30, 2020, and the respective changes in financial positions and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

The Report states that the basis for the qualification to the Auditor's opinion is as follows:

> The City lacks the adequate controls and processes to appropriately track and substantiate costs allocated to a specific capital asset project. As such, we were unable to obtain sufficient appropriate audit evidence related to construction in process. Additionally, the City does not have an adequate close-out process pertaining to the completion of a project and reclassification of the project to depreciable capital assets. The City also could not confirm it had reviewed capital assets for the impairment, substantiate the underlying value for capital assets, or adequately account for the physical location of capital assets.

The City has adopted a Corrective Action Plan (the "CAP") to address the findings in the Report, and is in the process of implementing the steps identified in the CAP. The foregoing information is only a summary of the Auditor's qualified opinion, and readers of this Official Statement are advised to review the Report in its entirety, including the Schedule of Findings and Questioned Costs, as well as the Management Response of the City to each individual finding, which are included in Appendix A hereto.

The Bonds are not payable from any revenues or funds of the City other than as set forth in the Official Statement. The financial statements are included for informational purposes only. The Auditor has not been engaged to perform and has not performed any procedures with respect to the financial information or any other information in this Official Statement. Copies of the City's comprehensive annual financial report may be requested from the City's Finance Department, 200 Lincoln Avenue, P.O. Box 909, Santa Fe, New Mexico 87504.

FINANCIAL ADVISOR

Hilltop Securities Inc. is employed as Financial Advisor to the City in connection with the issuance of the Bonds. The Financial Advisor's fee for services rendered with respect to the sale of the Bonds is contingent upon the issuance and delivery of the Bonds. Hilltop Securities Inc., in its capacity as Financial Advisor, has relied on the opinion of Bond Counsel and does not assume any responsibility for the information, covenants and representations contained in any of the legal documents with respect to the federal income tax status of the Bonds, or the possible impact of any present, pending or future actions taken by any legislative or judicial bodies.

The Financial Advisor to the City has provided the following sentence for inclusion in this Official Statement. The Financial Advisor has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to the City and, as applicable, to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Financial Advisor does not guarantee the accuracy or completeness of such information.

LEGAL MATTERS

Modrall, Sperling, Roehl, Harris & Sisk, P.A., Albuquerque, New Mexico, Bond Counsel, will render an opinion with respect to the validity of the Bonds and with respect to tax matters described above under "TAX EXEMPTION". The proposed form of such opinion is attached hereto as Appendix B. Modrall, Sperling, Roehl, Harris & Sisk, P.A., has also acted as special counsel to the City in connection with the preparation of this Official Statement. Certain legal matters will be passed upon for the City by Erin McSherry, Esq., City Attorney. Certain legal matters will be passed upon for the Underwriters by McCall, Parkhurst & Horton L.L.P., Dallas, Texas

RATINGS

The City has received a rating of "AA+" on the Bonds from Fitch Ratings Group ("Fitch") and has received a rating of "AA+" from S&P Global Ratings, a division of the McGraw-Hill Companies, Inc. ("S&P"). An explanation of the significance of the ratings given by Fitch and S&P, respectively, may be obtained from Fitch at One State Street Plaza, New York, New York 10004, and from S&P at 55 Water Street, 38th Floor, New York, New York 10041.

Such ratings reflect only the view of such rating agencies, and there is no assurance that such ratings will continue for any given period of time after obtained or that such ratings will not be revised downward or withdrawn entirely by the rating agencies if, in their judgment, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the Bonds. Neither the City nor the Underwriters have undertaken any responsibility to bring to the attention of the owners of the Bonds any proposed change in or withdrawal of such rating once received or to oppose any such proposed revision.

CONTINUING DISCLOSURE

In connection with the issuance of the Bonds, the City will execute a Continuing Disclosure Undertaking, in the form attached hereto as Appendix D, under which it will agree for the benefit of the owners of the Bonds to provide audited annual financial statements of the City when available after the end of each Fiscal Year, and to provide certain annual financial information and operating data relating to the City, timely notice of certain events and notice of certain events as required by Rule 15c2-12.

The City previously entered into continuing disclosure agreements in accordance with SEC Rule 15c2-12. The City amended its then-existing continuing disclosure agreements effective December 18, 2008 to change the report date from January 1 to April 1. Updates were not timely filed for fiscal year 2017 for the table entitled "Monthly Residential and Commercial Wastewater Fees" as required by the continuing disclosure agreement executed in connection with the issuance of the City's 2012B Bonds. Updates to the table entitled "Rates for New Meter Installs" for fiscal year 2017 were not timely filed as required by the continuing disclosure agreement executed in connection with the City's 2016 Bonds. Additionally, the audited financials and operating data for fiscal years 2016 and 2017 were not associated with all of the relevant CUSIPs. The City has made corrective filings and has filed a notice of failure to file the required information. Other than as described herein, the City has not been in default under its existing continuing disclosure agreements with respect to the filing of audited annual financial statements and annual financial information and notice of certain events as required by Rule 15c2-12.

UNDERWRITING

_____ (together, the "Underwriters") have agreed, subject to certain customary conditions, to purchase the Bonds at a price equal to the initial offering prices to the public, as shown on the inside cover page hereof, less an Underwriters' discount of $_____. The Underwriters' obligations are subject to certain conditions precedent, and the Underwriters will be obligated to purchase all of the Bonds, if any Bonds are purchased. The Bonds to be offered to the public may be offered and sold to certain dealers (including the Underwriters and other dealers depositing Bonds into investment trusts) at prices lower than the public offering prices of such Bonds and such public offering prices may be changed, from time to time, by the Underwriters.

The Underwriters have provided the following sentence for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

RBC Capital Markets, LLC ("RBCCM") has provided the following information for inclusion in this Official Statement. RBCCM is a full-service financial institution engaged in various activities that may include securities trading, commercial and investment banking, municipal advisory, brokerage, and asset management. In the ordinary course of business, RBCCM may actively trade debt and, if applicable, equity securities (or related derivative securities) and provide financial instruments (which may include bank loans, credit support or interest rate swaps). RBCCM may engage in transactions for its own accounts involving the securities and instruments made the subject of this securities offering or other offerings of the City. RBCCM may also communicate independent investment recommendations, market color or trading ideas and publish independent research views in respect of this securities offering or other offerings of the City. RBCCM may make a market in credit default swaps with respect to municipal securities in the future.

MISCELLANEOUS

References are made herein to certain laws, ordinances, documents, agreements and reports which are brief summaries thereof and which do not purport to be complete or definitive. Reference is made to such documents and reports for full and complete statements of the content thereof.

Any statement in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the City and the purchasers or owners of any of the Bonds.

OFFICIAL STATEMENT CERTIFICATION

As of the date hereof, to my knowledge and belief, this Official Statement is true, complete and correct in all material respects, and does not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made herein, in light of the circumstances under which they are made, not misleading.

The preparation of this Official Statement and its distribution has been authorized by the City Council of the City of Santa Fe. The Official Statement is hereby duly approved by the Council as of the date on the cover page hereof.

CITY OF SANTA FE, NEW MEXICO

By: _____
Alan Webber, Mayor

APPENDIX A

EXCERPTS FROM AUDITED FINANCIAL STATEMENTS OF THE CITY OF SANTA FE, NEW MEXICO FOR THE YEAR ENDED JUNE 30, 2030

The City has not requested the consent CliftonLarsonAllen LLP, which performed the audit of the City's financial statements, to the inclusion of the audit report and excerpts thereof in this Official Statement, and the auditor has not conducted a post-audit review of those financial statements.

APPENDIX B

FORM OF BOND COUNSEL OPINION

_____, 2032

City of Santa Fe
Santa Fe, New Mexico

$_____
City of Santa Fe, New Mexico
Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds
Series 20121

Ladies and Gentlemen:

We have acted as bond counsel to the City of Santa Fe, New Mexico (the "City") in connection with the issuance and sale of its $_____ Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021 (the "Bonds"). The Bonds are issued pursuant to the Constitution and laws of the State of New Mexico (the "State") and Ordinance No. 2021-___, adopted on July 28, 2021, as supplemented by the Pricing Certificate executed and delivered on _____, 2021 (as supplemented, the "Bond Ordinance"). Except as expressly defined herein, capitalized terms used herein have the same meanings as such terms have in the Bond Ordinance.

We have examined the laws of the State and the United States of America relevant to the opinions herein, and other proceedings and documents relevant to the issuance by the City of the Bonds. As to the questions of fact material to our opinion, we have relied upon representations of the City contained in the certified proceedings and other certifications furnished to us, without undertaking to verify the same by independent investigation.

Based upon the foregoing, and subject to the assumptions and qualifications set forth below, we are of the opinion that, under existing law on the date of this opinion:

1. The Bonds are valid and binding special, limited obligations of the City under and in accordance with the Bond Ordinance.

2. The Bond Ordinance has been duly authorized, executed and delivered by the City and the provisions of the Bond Ordinance are valid and binding on the City.

3. The Bonds are payable as to principal and interest solely from, and are secured by a pledge (but not an exclusive pledge) of Pledged Revenues of the City, as more fully described in the Bond Ordinance. The owners of the Bonds have no right to have taxes levied by the City for the payment of principal of or interest on the Bonds and the Bonds do not represent or constitute a debt or pledge of, or a charge against, the general credit of the City.

4. The Bond Ordinance creates the lien on the Pledged Revenues that it purports to create.

5. Under existing laws, regulations, rulings and judicial decisions, interest on the Bonds is excludable from gross income for federal income tax purposes. We are also of the opinion that interest on the Bonds is not an item of tax preference for purposes of calculating the alternative minimum tax imposed on individuals under provisions contained in the Internal Revenue Code of 1986, as amended (the "Code").

Although we are of the opinion that interest on the Bonds is excludable from gross income for federal income tax purposes, the accrual or receipt of interest on the Bonds may otherwise affect the federal income tax liability of the recipient. The extent of these other tax consequences will depend upon the recipient's particular tax status or other items of income or deduction. We express no opinion regarding any such consequences.

6. The Bonds and the income from the Bonds are exempt from all taxation by the State or any political subdivision of the State.

The opinions set forth above in paragraph 5 are subject to continuing compliance by the City with covenants regarding federal tax law contained in the proceedings and other documents relevant to the issuance by the City of the Bonds. Failure to comply with these covenants may result in interest on the Bonds being included in gross income retroactive to their date of issuance.

The opinions expressed herein are based upon existing law as of the date of issuance and delivery of the Bonds. We express no opinion as of any date subsequent hereto, and our engagement with respect to the Bonds has concluded with their issuance. We disclaim any obligation to update this opinion.

The obligations of the City related to the Bonds are subject to the reasonable exercise in the future by the State and its governmental bodies of the police power inherent in the sovereignty of the State and to the exercise by the United States of the powers (including bankruptcy powers) delegated to it by the United States Constitution. The obligations of the City and the security provided therefor, as contained in the Bond Ordinance, may be subject to general principles of equity which permit the exercise of judicial discretion and are subject to the provisions of applicable bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect.

The foregoing opinions represent our legal judgment based upon a review of existing legal authorities as of the date of issuance and delivery of the Bonds that we deem relevant to render such opinions and are not a guarantee of result. We express no opinion with respect to any pending legislation.

As bond counsel, we are passing upon only those matters set forth in this opinion and are not passing upon the accuracy or completeness of any statement made in connection with any sale of the Bonds or upon any tax consequences arising from the receipt or accrual of interest on, or the ownership of, the Bonds except those specifically addressed in Paragraphs 5 and 6 above.

Respectfully submitted,

APPENDIX C

DEFINITIONS OF CERTAIN TERMS IN THE BOND ORDINANCE

Definitions. The terms in this section are defined for all purposes of the Ordinance and of any ordinance amendatory or supplemental, or relating, and of any instrument or document appertaining, except where the context by clear implication otherwise requires, shall have the following meanings:

"Act" means the general laws of the State, including Sections 3-31-1 through 3-31-12 NMSA 1978, as amended, and enactments of the Governing Body relating to the issuance of the Bonds, including this Ordinance.

"Authorized Officer" means the following officers of the City: Mayor, City Manager, City Finance Director, or other officer of the City when designated by a certificate signed by the Mayor of the City from time to time, a certified copy of which shall be delivered to the Paying Agent and the Registrar.

"Bond Counsel" means an attorney or firm of attorneys nationally recognized for expertise in the area of municipal bonds and the exemption of interest on municipal bonds from federal income taxation.

"Bond Purchase Agreement" means the bond purchase agreement between the City and the Underwriters in connection with the negotiated sale of the Bonds, the form of which has been presented to the Governing Body in connection with the Bond Ordinance. been presented to the Governing Body in connection with the Bond Ordinance.

"Bonds", "2021 Bonds" or "Series 2021 Bonds" means the "City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021", which are authorized by the Bond Ordinance.

"Business Day" means any day other than (i) a Saturday or Sunday, (ii) any day on which the following offices are authorized or required to remain closed: offices of the City and of banks located in the cities in which the principal offices of the Paying Agent and Registrar are located or (iii) a day on which the New York Stock Exchange is closed.

"City," "Municipal," or "Municipality" means the municipal corporation and body corporate and politic known as the City of Santa Fe, Santa Fe County, New Mexico.

"Continuing Disclosure Undertaking" means the continuing disclosure undertaking with respect to the Bonds to be executed on the date of issuance and delivery of the Bonds to the Underwriters, the form of which in included in the Preliminary Official Statement approved pursuant to the Bond Ordinance.

"Costs of Issuance" means all costs relating to issuance of the Bonds, including, without limitation, costs of advertising and publication, costs of preparing the Bonds, fees and expenses of the financial advisor, bond counsel, the Paying Agent, the Registrar, the rating fees and other reasonable and necessary fees and costs, including applicable gross receipts taxes, related to the issuance of the Bonds.

"Credit Facility" means a letter of credit, standby bond purchase agreement, line of credit, bond insurance policy or reserve account insurance policy, guaranty or similar agreement provided by a bank, insurer or other provider of a Credit Facility rated, at the time the Credit Facility is provided, "A" or better by Fitch and S&P (if such rating agencies are then rating the Bonds), including any substitute therefor, to provide support to pay the purchase price of, or the payment of the principal of and interest on, Obligations.

"Cross-over Refunding Bonds" means bonds or obligations issued for the purpose of refunding Obligations if the proceeds thereof are irrevocably deposited in escrow to secure repayment on an applicable redemption date or maturity date of the principal of and redemption premium on the related Obligations being refunded and the earnings on such escrow are required to be used to pay interest on the Cross-over Refunding Bonds.

"Debt Service Requirements" for any period means the sum of: (i) the amount required to pay the interest, or to make reimbursements for payments of interest, becoming due on the applicable Obligations during such period; plus (ii) the amount required to pay the principal or accreted value, or to make reimbursements for the payment of principal or accreted value, becoming due on the applicable Obligations during that period, whether at maturity, an accretion term date or upon mandatory sinking fund redemption dates, plus (iii) any net periodic payments on a notional amount required to be made by the City pursuant to a Qualified Exchange Agreement minus (iv) any net periodic payments on a notional amount to be received by the City pursuant to a Qualified Exchange Agreement.

(a) No payments required on the applicable Obligations shall be included in any computation of Debt Service Requirements for any computation period prior to the maturity or otherwise certain due dates thereof which may occur because of the exercise of an option by the City, or which may otherwise become due by reason of any other circumstance or contingency, including acceleration, which constitute other than regularly scheduled payments of principal, accreted value, interest or other regularly scheduled payments on the applicable Obligations.

(b) Debt Service Requirements required to be made pursuant to a Qualified Exchange Agreement shall be based upon the actual amount required to be paid by the City, if any, to the Qualified Counterparty. In determining that amount, any payments required to be made by either party to the Qualified Exchange Agreement at a Variable Exchange Rate shall be computed, in determining the obligation of the City under the Qualified Exchange Agreement, using the procedures set forth in the applicable sections of this Ordinance.

(c) The computation of interest for the purposes of this definition shall be made without considering the interest rate payable pursuant to a Credit Facility, unless, at the time of computation of Debt Service Requirements, payments on Obligations are owed to, or Obligations are owned or held by, the provider of a Credit Facility pursuant to the provisions of that Credit Facility.

(d) The accreted value of capital appreciation bonds shall be included in the calculation of interest and principal only for the applicable year during which the accreted value becomes payable.

(e) In any computation of Debt Service Requirements relating to the issuance of additional Parity Obligations:

(1) There shall be deducted from that computation (i) amounts on deposit in an escrow account related to an issue of Cross-over Refunding Bonds and (ii) proceeds of a series of Obligations deposited to the credit of an account for the payment of capitalized interest on Obligations included as part of the computation during the applicable period.

(2) There may be made the adjustment to the Debt Service Requirements applicable to Bond Anticipation Notes described in Paragraph E of Sections 21 and 23 of the Ordinance.

(f) Except as provided in Paragraph F of Section 21, the purchase or tender price of Put Obligations resulting from the optional or mandatory tender or presentment for purchase of those Put Obligations shall not be included in any computation of Debt Service Requirements.

"Depository" means The Depository Trust Company, New York, New York, or such other securities depository as may be designated by an officer of the City.

"Environmental Services Gross Receipts Tax" means the environmental services gross receipts tax imposed pursuant to Section 7-19D-10 NMSA 1978 by the Environmental Services Gross Receipts Tax Ordinance on persons engaging in business in the City in the amount of 1/16th of one percent (0.0625%) of the gross receipts of such persons.

"Environmental Services Gross Receipts Tax Ordinance" means City Ordinance No. 1993-20 imposing the Environmental Services Gross Receipts Tax, as amended.

"Environmental Services Gross Receipts Tax Revenue Fund" means the "City of Santa Fe, New Mexico Environmental Services Gross Receipts Tax Revenue Fund," maintained by the City and continued in Section 17 of this Ordinance, into which the City shall deposit the Environmental Services Gross Receipts Tax Revenues.

"Environmental Services Gross Receipts Tax Revenues" means the environmental services gross receipts tax revenues received by the City pursuant to Section 7-19D-10 NMSA 1978 and the Environmental Services Gross Receipt Tax Ordinance.

"Exchange Act" means Section 6-18-8.1 NMSA 1978, as amended and supplemented.

"Exchange Termination Payment" means the net amount payable pursuant to a Qualified Exchange Agreement by the City or a Qualified Counterparty to compensate the other party for any losses and costs that such other party may incur as a result of the early termination of the obligations, in whole or in part, of the parties under such Qualified Exchange Agreement.

"Federal Securities" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Fiscal Year" for the purposes of this Ordinance means the twelve months commencing on the first day of July of any calendar year and ending on the last day of June of the next calendar year; but it may mean any other 12-month period which the City hereafter may establish.

"Fitch" means Fitch Ratings Group, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

"Fixed Exchange Rate" means a fixed rate of interest payable by the City or a Qualified Counterparty pursuant to a Qualified Exchange Agreement.

"Governing Body" means the members of the governing body designated as councilors who, together with the mayor, are the governing body of the City.

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America or certificates or receipts established by the United States Government or its agencies or instrumentalities representing direct

ownership of future interests or principal payments on direct obligations of, or obligations fully guaranteed by, the United States of America or any of its agencies or instrumentalities the obligations of which are backed by the full faith and credit of the United States.

"Historic Test Period" means any twelve consecutive calendar months designated by an Authorized Officer from time to time out of the eighteen-calendar months next preceding the date of adoption of the City ordinance authorizing the issuance of additional Obligations without regard to any resolution or ordinance supplementing or amending the authorizing ordinance.

"Improvement Project" means constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to public buildings and facilities, or purchasing or improving any ground relating to, or any combination of the foregoing purposes, and reconstructing, resurfacing, maintaining, acquiring rights of way, repairing and otherwise improving municipal alleys, streets, public roads and bridges or any combination of the foregoing purposes and paying the costs of issuance of the Bonds.

"Independent Accountant" means (A) an accountant employed by the State of New Mexico and under supervision of the State Auditor of the State of New Mexico, or (B) any registered or certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State of New Mexico, appointed and paid by the City, who (1) is, in fact, independent and not under the domination of the City, (2) does not have any substantial interest, direct or indirect, with the City, and (3) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or similar audits of the books or records of the City.

"Infrastructure Gross Receipts Tax" means the infrastructure gross receipts tax imposed pursuant to Section 7-19D-11 NMSA 1978 by the Infrastructure Gross Receipts Tax Ordinance on persons engaged in business in the City in an amount of 1/16th of one percent (0.0625%) of the gross receipts of such persons.

"Infrastructure Gross Receipts Tax Ordinance" means City Ordinance No. 1993-21 imposing the Infrastructure Gross Receipts Tax, as amended.

"Infrastructure Gross Receipts Tax Revenue Fund" means the "City of Santa Fe Infrastructure Gross Receipts Tax Revenue Fund" maintained by the City and continued in Section 17 of the Ordinance, into which the City shall deposit the Infrastructure Gross Receipts Tax Revenues.

"Infrastructure Gross Receipts Tax Revenues" means the infrastructure gross receipts tax revenues received by the City pursuant to Section 7-19D-11 NMSA 1978 and the Infrastructure Gross Receipts Tax Ordinance.

"Insured Bank" means any federally or state-chartered savings and loan association or federally or state-chartered commercial bank, the deposits of which are insured by the Federal Deposit Insurance Corporation and which has, or is the lead bank of a parent holding company which has (i) unsecured, uninsured and unguaranteed obligations which are rated AA or better by Fitch and S&P or (ii) combined capital, surplus and undivided profits of not less than $10,000,000.

"Moody's" means Moody's Investors Service, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

"Obligations" means bonds, notes or any other instrument which evidences a borrowing or other obligation of the City, including Qualified Exchange Agreements, secured by Pledged Gross Receipts Tax

Revenues, issued or incurred for any purpose permitted by the Act or the Exchange Act, as amended from time to time.

"One-Half Percent Municipal Gross Receipts Tax Ordinance" means City of Santa Fe Ordinance No. 1981-45 imposing a one-half of one percent municipal gross receipts tax.

"One-Half Percent Municipal Gross Receipts Tax Revenue Fund" means the "City of Santa Fe, New Mexico One-Half Percent Municipal Gross Receipts Tax Revenue Fund" maintained by the City and continued in Section 17 of this Ordinance, into which the City shall deposit the One-Half Percent Municipal Gross Receipts Tax Revenues.

"One-Half Percent Municipal Gross Receipts Tax Revenues" means those revenues received by the City pursuant to the Municipal Local Option Gross Receipts Taxes Act, Sections 7-19D-1 through 7-19D-12 NMSA 1978, and the One-Half Percent Municipal Gross Receipts Tax Ordinance.

"Ordinance" means City Ordinance 2018-25 as amended or supplemented from time to time.

"Parity Subordinate Lien Gross Receipts Tax Obligations" or "Parity Subordinate Obligations" means the Bonds, the Series 2012B Bonds, the Series 2013B Bonds, the Series 2016C Bonds, and the Series 2016D Bonds, the Series 2017 Taxable Bonds, The Series 2018 Gasoline Tax/Subordinate Lien GRT Bonds, the 2019 Finance Authority Refunding Loan, the 2019 Finance Authority Parking Improvements Loan, any scheduled periodic payments (but not Exchange Termination Payments) required to be made by the City pursuant to a Qualified Exchange Agreement, and any other Obligations hereafter issued or incurred payable from the Pledged Gross Receipts Tax Revenues and issued with a lien on the Pledged Gross Receipts Tax Revenues on parity with the lien thereon of the Bonds.

"Paying Agent" means BOKF, NA, as agent for the City for the payment of the Bonds, the interest thereon, and any successor.

"Permitted Investments" means any of the following which at the time of such investment are legal investments for the City pursuant to adopted City investment policies and the laws of the State:

(a) Government Obligations;

(b) Obligations of, or obligations guaranteed as to principal and interest by any agency or instrumentality of the United States which are backed by the full faith and credit of the United States, including, but not limited to: General Services Administration--participation certificates; Government National Mortgage Association (GNMA)--GNMA guaranteed mortgage-backed securities and GNMA guaranteed participation certificates; U.S. Department of Housing & Urban Development--local authority bonds; and U.S. Export-Import Bank--all fully guaranteed obligations;

(c) Obligations of the following government-sponsored agencies: Federal Home Loan Mortgage Corporation--participation certificates and senior debt obligations; Farm Credit System--consolidated system-wide bonds and notes; Federal Home Loan Banks--consolidated debt obligations; Federal National Mortgage Association--senior debt obligations and mortgage-backed securities (excluding stripped mortgage securities which are valued greater than par on the portion of unpaid principal); Student Loan Marketing Association--senior debt obligations (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date) and letter of credit backed issues; Financing Corporation--debt obligations; and Resolution Funding Corporation--debt obligations;

(d) Bank time deposits evidenced by certificates of deposit and bankers acceptances issued by an Insured Bank, provided that such time deposits and bankers' acceptances (1) do not exceed at

any one time in the aggregate five percent (5%) of the combined total of the capital, surplus and undivided profits of such Insured Bank, or (2) are secured by obligations described in paragraphs (a), (b), (c) and (h) of this definition which obligations at all times have a market value (exclusive of accrued interest) at least equal to 102% of such time deposits so secured;

(e) Obligations, other than specified private activity bonds (as defined in Section 57(a)(5)(C) of the Internal Revenue Code, as amended (the "Tax Code")), the interest on which is excluded from gross income of the recipient for federal income tax purposes and any other instrument which does not constitute "investment property" under Section 148 of the Tax Code (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date), as amended from time to time, which is rated in the highest major Rating Category by S&P and Fitch (if such rating agency is then rating the Bonds);

(f) Money market instruments and other securities of commercial banks, broker-dealers or recognized financial institutions, which securities or instruments are rated in the highest Rating Category by S&P and Fitch, (if such rating agency is then rating the Bonds), or which securities are guaranteed by a person or entity whose long-term debt obligations are rated in the highest Rating Category by S&P and Fitch (if such rating agency is then rating the Bonds) including, without limitation, securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the provisions or 15 U.S.C. Sections 80(a)-1 et. seq., which invest only in, or whose securities are secured only by, obligations of the type set forth in paragraphs (a), (b), (c) and (h) of this definition;

(g) Stripped Securities: (1) U.S. Treasury STRIPS and (2) REFCORP STRIPS (stripped by Federal Reserve Bank of New York);

(h) Repurchase agreements involving the purchase and sale of, and guaranteed investment contracts, the par value of which is collateralized by a perfected first pledge of, or security interest in, or the payments of which are unconditionally guaranteed by, securities described in parts (a), (b), (c) and (h) of this definition, which collateral is held by the City, or for the benefit of the City, by a party other than the provider of the guaranteed investment contract or repurchase agreement, with a collateralized value of at least 102% of the par value of such repurchase agreement or guaranteed investment contract or 102% of the market value thereof, valued at intervals of no less than monthly and which collateral is not subject to any other pledge or security interest; and

(i) Such other investments as are now or may be hereafter authorized as legal investments for the City by the legislature of the State under Section 6-10-10 NMSA 1978, or a similar statutory provision applicable to the City, provided that such investment is rated, at the time of purchase, "A" or better by Fitch and "A" or better by S&P (if such rating agency is then rating the Bonds).

"Pledged Gross Receipts Tax Revenues" means, collectively, (1) the State-Shared Gross Receipts Tax Revenues; (2) the One-Half Percent Municipal Gross Receipts Tax Revenues; (3) the Infrastructure Gross Receipts Tax Revenues; (4) the portion of the gross receipts tax distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues, and Infrastructure Gross Receipts Tax Revenues that would have been remitted to the City but for the deductions provided by Section 7-9-92 and 7-9-93 NMSA 1978 and any similar distributions made to the City in lieu of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues and Infrastructure Gross Receipts Tax Revenues pursuant to law; and (5) any other gross receipts tax revenues received by the City, whether from distribution by the State or pursuant to gross receipts taxes imposed by the City, and hereafter (i.e. after the adoption of this Ordinance) pledged to the payment of the Bonds by affirmative act

of the Governing Body.

"Pledged Revenues" means the Pledged Gross Receipts Tax Revenues.

"Preliminary Official Statement" and "Official Statement" means the disclosure documents utilized by the Purchaser in connection with the offer and sale of the Bonds to investors.

"Pricing Certificate" means the certificate setting forth the maturity dates, principal amounts, prices, redemption features and other final terms of the Bonds.

"Purchaser" means the Underwriters.

"Put Obligations" means any Obligations which have put or similar features requiring the City to purchase such Obligations upon notice from the owners thereof.

"Qualified Counterparty" means, with respect to a Qualified Exchange Agreement, any party whose senior long term debt obligations, or whose obligations under a Qualified Exchange Agreement are guaranteed by a party whose senior long term debt obligations, are rated (at the time of execution of the Qualified Exchange Agreement) in one of the top two Rating Categories by Fitch and S&P.

"Qualified Exchange Agreement" means any financial arrangement between the City and a Qualified Counterparty which satisfies the requirements of the Exchange Act at the time the agreement is entered into.

"Rating Category" means a generic securities rating category, without regard, in the case of a long-term rating category, to any refinement or gradation of such long-term rating category by a numerical modifier or otherwise.

"Refunded Bonds" means the Refunded Series 2010B Bonds and the Refunded Series 2012A Bonds.

"Refunded Series 2010B Bonds" means the Series 2010B Bonds maturing on and after June 1, 2022.

"Refunded Series 2012A Bonds" means the Series 2010A Bonds maturing on and after June 1, 2022.

"Refunding Account" means the "City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021, Refunding Project Account" established in Section 17 hereof and to be maintained by the City.

"Refunding Project" means (1) refunding, discharging and paying the Refunded Series 2010B Bonds, including interest accrued to the date on which the Refunded Series 2010B Bonds are refunded, (2) refunding, discharging and paying the Refunded Series 2012A Bonds, including interest accrued to the date on which the Refunded Series 2012A Bonds are refunded, and (3) paying the Costs of Issuance allocable to the Refunding Project.

"Registrar" means BOKF, N.A., as registrar and transfer agent for the Bonds, and any successor.

"Regular Record Date" means the 15th day of the calendar month (whether or not a business day) preceding each regularly scheduled interest payment date on the Bonds.

"Related Documents" means the Pricing Certificate, the Bond Purchase Agreement, the Continuing Disclosure Undertaking, the Preliminary Official Statement, the Official Statement, and any other document or agreement containing an obligation of the City as may be required in connection with the issuance of the

Bonds.

"S&P" means S&P Global, its successors and their assigns, and, if such entity is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

"Sale Price" means the amount paid by the Purchaser for its purchase of the Bonds, set forth in the Pricing Certificate and the Bond Purchase Agreement.

"Series 2021 Bond Fund" means the "City of Santa Fe Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021, Bond Fund," established in Section 17 of the Bond Ordinance.

"Series Date" means the date of issuance and delivery of the Bonds to the Purchaser.

"Special Record Date" means a special date fixed to determine the names and addresses of registered owners of the Bonds for purposes of paying interest on a special interest payment date for the payment of defaulted interest thereon, all as further provided in Section 5B of the Ordinance.

"State-Shared Gross Receipts Tax Revenues" means the revenues distributed to the City monthly by the New Mexico Department of Taxation and Revenue pursuant to Sections 7-1-6 and 7-1-6.4 NMSA 1978, at the rate authorized (currently 1.225% of the gross receipts of persons doing business within the City) from the proceeds of a state-wide gross receipts tax imposed pursuant to Chapter 7, Article 9, NMSA 1978.

"State-Shared Gross Receipts Tax Revenue Fund" means the "City of Santa Fe, New Mexico State-Shared Gross Receipts Tax Revenue Fund" maintained by the City and continued in Section 17 of the Ordinance, into which the City shall deposit the State-Shared Gross Receipts Tax Revenues.

"Superior Lien Gross Receipts Tax Obligations", "Superior Tax Obligations" or "Superior Obligations" means the Series 2013A Bonds, the Series 2014 Bonds, the Series 2016A Bonds, and the Series 2016B Bonds, the Series 2018A Bonds and any other Obligations hereafter issued or incurred payable from the Pledged Gross Receipts Tax Revenues and issued with a lien on the Pledged Gross Receipts Tax Revenues superior to the lien thereon of the Bonds.

"Underwriters" means _____, as senior manager, and _____, as co-manager, the original purchasers of the Bonds, and their successors and assigns.

"Variable Exchange Rate" means a Variable Interest Rate payable by the City or a Qualified Counterparty pursuant to a Qualified Exchange Agreement.

"Variable Interest Rate" means an interest rate which varies or fluctuates from time to time.

Any provision of the Ordinance regarding a Qualified Counterparty shall be deemed to be of no effect if no Qualified Exchange Agreement is in effect or if a Qualified Counterparty is in default in its obligations under a Qualified Exchange Agreement and no amount is due and owing under a Qualified Exchange Agreement.

APPENDIX D

FORM OF CONTINUING DISCLOSURE UNDERTAKING

Section 1. Recitals. This Continuing Disclosure Undertaking (this "Undertaking") is executed and delivered by the City of Santa Fe, New Mexico (the "City") in connection with the issuance by the City of $_____ City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2021(the "Bonds"). The Bonds are being issued pursuant to the Ordinance No. 2021-__ adopted by the City on July 28, 2021 (the "Ordinance"). In order to allow the Underwriters of the Bonds to comply with the Rule (defined below), the City is required to make certain continuing disclosure undertakings for the benefit of owners (including beneficial owners) of the Bonds (the "Owners"). This Undertaking is intended to satisfy the requirements of the Rule.

Section 2. Definitions.

(a) "Annual Financial Information" means the financial information (which will be based on financial statements prepared in accordance with generally accepted accounting principles, as in effect from time to time ("GAAP"), for governmental units as prescribed by the Governmental Accounting Standards Board ("GASB") or operating date with respect to the City) delivered at least annually pursuant to Sections 3(a) and 3(b), consisting of information of the type included in the following headings of the Official Statement entitled: "INFORMATION CONCERNING GROSS RECEIPTS TAXES AND REVENUES – Historical Pledged Gross Receipts Tax Revenues and Coverages –Combined Pledged Gross Receipts Tax Revenues Report." Annual Financial Information may, but is not required to, include Audited Financial Statements.

(b) "Audited Financial Statements" means the City's annual financial statements, prepared in accordance with GAAP for governmental units as prescribed from time to time by GASB, which financial statements have been audited by such auditor as may then be required or permitted by the laws of the State.

(c) "EMMA" means the MSRB's Electronic Municipal Market Access system located on its website at emma.msrb.org.

(d) "Event Information" means the information delivered pursuant to Section 3(d).

(e) "MSRB" means the Municipal Securities Rulemaking Board. The current address of the MSRB is 1900 Duke Street, Suite 600, Alexandria, Virginia 22314, telephone (703) 797-6600, fax (703) 797-6708.

(f) "Official Statement" means the Official Statement delivered in connection with the original issue and sale of the Bonds.

(g) "Report Date" means April 1 of each year, beginning in 2022.

(h) "Rule" means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended (17 C.F.R. Part 240, § 240.15c2-12), as the same may be amended from time to time.

(i) "SEC" means the United States Securities and Exchange Commission.

(j) "State" means the State of New Mexico.

Section 3. Provision of Annual Information and Reporting of Event Information.

(a) The City, or its designated agent, will provide the Annual Financial Information for the preceding fiscal year to EMMA on or before each Report Date while the Bonds are outstanding.

(b) If Audited Financial Statements are not provided as a part of the Annual Financial Information, the City, or its designated agent, will provide unaudited financial statements as part of the Annual Financial Information. In such cases, Audited Financial Statements will be provided to EMMA when and if available.

(c) The City, or its designated agent, may provide Annual Financial Information by specific reference to other documents, including information reports and official statements relating to other debt issues of the City, which have been submitted to EMMA or filed with the SEC; provided, however, that if the document so referenced is a "final official statement" within the meaning of the Rule, such final official statement must also be available from the MSRB.

(d) The City, or its designated agent, will provide, to EMMA, notice of any of the following events with respect to the Bonds in a timely manner not in excess of ten (10) business days after the occurrence of the event:

(i) principal and interest payment delinquencies;

(ii) non-payment related defaults, if material;

(iii) unscheduled draws on debt service reserves reflecting financial difficulties;

(iv) unscheduled draws on credit enhancements reflecting financial difficulties;

(v) substitution of credit or liquidity providers, or their failure to perform;

(vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;

(vii) modifications to rights of security holders, if material;

(viii) bond calls, if material, and tender offers;

(ix) defeasances;

(x) release, substitution or sale of property securing repayment of the securities, if material;

(xi) rating changes;

(xii) bankruptcy, insolvency, receivership or a similar event with respect to the City or an obligated person;

(xiii) the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(xiv) appointment of a successor or additional trustee, or a change of name of a trustee, if material;

(xv) the incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material; and

(xvi) a default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.

(e) The City, or its designated agent, will provide to EMMA notice in a timely manner of the City's failure to timely provide the Annual Financial Information as specified in Sections 3(a) and 3(b) herein.

Section 4. Method of Transmission. Unless otherwise required by law and subject to technical and economic feasibility, the City, or its designated agent, will employ such methods of electronic or physical information transmission as are requested or recommended from time to time by EMMA, the MSRB and the SEC.

Section 5. Enforcement. The obligations of the City under this Undertaking are for the benefit of the Owners. Each Owner is authorized to take action to seek specific performance by court order to compel the City to comply with its obligations under this Undertaking, which action will be the exclusive remedy available to it or any other Owner. The City's breach of its obligations under this Undertaking will not constitute an event of default under the Ordinance and none of the rights and remedies provided by the Ordinance will be available to the Owners with respect to such a breach.

Section 6. Term. The City's obligations under this Undertaking will be in effect from and after the issuance and delivery of the Bonds and will extend to the earliest of (i) the date all principal and interest on the Bonds have been paid or legally defeased pursuant to the terms of the Ordinance; (ii) the date on which the City is no longer an "obligated person" with respect to the Bonds within the meaning of the Rule; or (iii) the date on which those portions of the Rule which require this Undertaking are determined to be invalid or unenforceable by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the Bonds.

Section 7. Amendments. The City may amend this Undertaking from time to time, without the consent of any Owner upon the City's receipt of an opinion of independent counsel experienced in federal securities laws to the effect that such amendment:

(a) is made in connection with a change in circumstances that arises from a change in legal requirements, a change in law, a change in the identity, nature or status of the City or a change in the availability or character of financial information for the City;

(b) this Undertaking, as amended, would have complied with the Rule at the time of the initial issue and sale of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any changes in circumstances; and

(c) the amendment does not materially impair the interests of the Owners.

Any Annual Financial Information containing amended operating data or financial information will explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided. If an amendment changes the accounting principles to be followed in preparing financial statements, the Annual Financial Information and Audited Financial Statements for the year in which the change is made will present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 8. Beneficiaries. This Undertaking binds and inures to the sole benefit of the City and the Owners, and creates no rights in any other person or entity.

Section 9. Special Funds. This Undertaking is subject to the availability of necessary funds from annual Pledged Revenues (as defined by the Ordinance).

Section 10. Governing Law. This Undertaking is governed by and is to be construed in accordance with the law of the State.

Date: _____, 2021

CITY OF SANTA FE, NEW MEXICO

By: _____
Alan Webber, Mayor

REFUNDING ANALYSIS

Santa Fe, New Mexico

Refund Series 2010B and 2012A

Preliminary / Subject to Change

Year	Refunded Debt Service	New Refunding Debt Service	**Savings**
2022	$ 3,533,425	$ 3,530,333	**$ 3,092**
2023	3,529,825	3,190,250	**339,575**
2024	3,531,875	3,197,250	**334,625**
2025	3,101,925	2,767,250	**334,675**
2026	3,101,850	2,766,750	**335,100**
	$ 16,798,900	$ 15,451,833	**$ 1,347,067**

Refunded Series:

Refunded Principal	$ 14,745,000
Average Rate of Refunded Bonds	4.64%
True Interest Cost (TIC) on Refunding Bonds	0.92%
Net Present Value Savings	$ 1,296,270

Percentage Savings of Refunded Bonds = 8.791%

HilltopSecurities
A Hilltop Holdings Company

SUMMARY OF REFUNDED BONDS

Santa Fe, New Mexico

Refund Series 2010B and 2012A

Preliminary / Subject to Change

Series 2010B

Date	Par Amount	Rate	Call Date
6/1/2022	$ 890,000	5.000%	6/1/2020
6/1/2023	935,000	5.000%	6/1/2020
6/1/2024	980,000	4.000%	6/1/2020
6/1/2025	590,000	4.000%	6/1/2020
6/1/2026	615,000	4.000%	6/1/2020
	$ 4,010,000		

Series 2012A

Date	Par Amount	Rate	Call Date
6/1/2022	$ 470,000	3.000%	6/1/2021
6/1/2022	1,500,000	4.000%	6/1/2021
6/1/2023	540,000	3.000%	6/1/2021
6/1/2023	1,500,000	5.000%	6/1/2021
6/1/2024	50,000	3.000%	6/1/2021
6/1/2024	2,085,000	5.000%	6/1/2021
6/1/2025	30,000	3.250%	6/1/2021
6/1/2025	2,210,000	5.000%	6/1/2021
6/1/2026	350,000	3.500%	6/1/2021
6/1/2026	2,000,000	5.000%	6/1/2021
	$ 10,735,000		

HilltopSecurities
A Hilltop Holdings Company

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Roman "Tiger" Abeyta, District 3
Chris Rivera, District 3
Jamie Cassutt, District 4
JoAnne Vigil Coppler, District 4

MEMORANDUM

To: **Members of the Governing Body**

From: **Michael Prinz, Assistant City Attorney**

Via: **Erin K. McSherry, City Attorney**

Re: **Case Number #2021-3813 – Recommendation on Conformity of Appeal of Revocation of Short Term Rental Permit #STR-229221** Appeal by Charles LaCalle of Land Use Director's decision to revoke the Short Term Rental Permit for 521 ½ W. San Francisco Street. (Michael Prinz, Assistant City Attorney, 955-6554)

Date: **July 7, 2021; for the July 14, 2021 Meeting of the Governing Body**

I. Background

On May 24, 2021, Land Use Director Elias Isaacson ("Director") issued notice to Charles LaCalle ("Appellant") via certified mail that the Land Use Department was revoking the short term rental ("STR") permit for 521 ½ W. San Francisco Street ("Property"). **Exhibit A – revocation notice letter**. The letter explained that the permit was issued in error as the Property is ineligible for an STR permit due to the the proximity restrictions in Ordinance 2016-33. This Ordinance provides that "short-term rental permits will not be issued for more than two short-term rental units directly adjoining each other on a residentially zoned street." *See* full text in Appendix A below. STR permits had already been issued to the properties as 521 and 523 W. San Francisco Street so a third STR permit for 521 ½ W. San Francisco would violate this restriction. The letter informed Appellant that he could appeal the Director's decision and must file an appeal and pay the $200 appeal fee within fifteen (15) days of the issuance of the notice. The City Code section on appealing land use decisions, SFCC Section 14-3.17, was also referenced in the letter.

On June 9, 2021, Appellant submitted a written appeal to the Land Use Director along with a $200 check for the appeal fee. **Exhibit B- Appeal Petition**. Under the City Code, the land use

director is required to review all appeals for conformity with the requirements set forth in Section 14-3.17. If the director determines the appeal does not conform to the requirements, the director refers the matter to the city attorney for review. If the city attorney concurs with the director's determination, the city attorney shall prepare a written recommendation for the Governing Body to discuss.

The Director reviewed Appellant's appeal and determined that it did not conform to the requirements of Section 14-3.17 because it was not submitted within fifteen days of the date of issuance of the May 24 letter. **Exhibit C – Land Use Director's Determination Email**.

The City Attorney's Office agrees with the Director's determination and recommends that the Governing Body accept the Land Use Director's Determination. A brief analysis of the law and facts is provided below.

This matter comes before the Governing Body as an item for discussion. This is not a quasi-judicial hearing and the only decision to be made by the Governing Body is to accept or reject the recommendation of the City Attorney's Office.

II. ANALYSIS

The land use director may revoke an approval that was previously granted "upon written notice delivered to the permittee . . . by certified mail with return receipt requested." *See* Section 14-11.4(D)(1)(b). In this case, the Land Use Director issued the written notice of revocation on May 24, 2021, via certified mail to Appellant. **Exhibit D – certified mail receipt**.

An appellant must file an appeal within fifteen (15) days of the date of a final action by the Director. Section 14-3.17(C)(1)(c). The date of a "final action" is "the date of issuance of any written order (including a decision, letter, permit or other document . . .") *See* Section 14-3.17(C)(4)(a). Because the Director issued the letter on May 24, 2021, the fifteen day deadline to submit an appeal fell on June 8, 2021. *See* Section 14-1.9(D)(1). In this case, the appeal was submitted on June 9, one day after the fifteen day deadline.

The City Attorney's Office recommends that the Governing Body accept the determination that the appeal does not conform to Section 14-3.17(C)(1)(c) as it was not submitted within fifteen days of the issuance of the May 24, 2021 notice.

The Governing Body must decide whether to accept or reject the City Attorney's recommendation regarding the conformity of the appeal. If the Governing Body accepts the recommendation, the decision is final and the Appellant may appeal to the district court. If the Governing Body does not accept the recommendation, the appeal shall be heard by the Board of Adjustment.

Should the Governing Body decide to reject the City Attorney's Office recommendation, the appeal will be heard by the Board of Adjustment. The decision of the Board of Adjustment would be the final step by the City

III. MOTION OPTIONS

There are two options for motions in this case. Sample motions follow:

Motion 1: *I move to **accept** the recommendation of the City Attorney's Office on the conformity of Appellant's appeal.*

Motion 2: *I move to **not accept** the recommendation of the City Attorney's Office on the conformity of Appellant's appeal.*

APPENDIX A:
RELEVANT EXCERPTS FROM THE CITY LAND USE CODE

A. Santa Fe City Code (SFCC) 1987, Section 14-6.2(A)(5)(c)(ii) (2016, prior to 2020 amendments)

Short-term rental permits will not be issued for more than two short-term rentals units directly adjoining each other on a residentially zoned street. For the purposes of this subsection, "directly adjoining" means sharing a common boundary along a public street frontage, but does not include an adjoining units in a condominium, townhouse development, in an apartment complex, or residential compound.

B. 14-11.4(D)(1)(b) – Revocation of approvals

The land use director... may revoke an approval that he or she has granted upon written notice delivered to the permittee by hand, by posting a notice on the property where the violation occurs, or by certified mail with return receipt requested.

C. 14-3.17(A)(1)(c) – Final Actions

Final actions of the land use director include the written issuance or denial of a permit, approval or denial of an application for a final plats for resubdivisions or summary subdivision or other approval or denial within the land use director's jurisdiction.

D. 14-3.17(C)(4)(a) – Date of final action

The date of final action shall be deemed to be the date of the final written decision and determined as follows:

For final actions of the land use director, the date of issuance of any written order (including a decision, letter, permit or other document, and including recordation of a final plat for resubdivision or summary subdivision) granting or denying relief or in the case of building permits.

E. 14-3.17(C)(1)(c) – Time for appeal

Appellants shall file an appeal within fifteen (15) days of the date of final action.

F. 14-1.9(D)(1) – Computation of Time

The time in which an act is to be done is computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday or holiday observed by the city, the deadline or required date of action is the next day that is not a Saturday, Sunday or holiday observed by the city. References to days are calendar days unless otherwise stated.

G. 14-3.17(D)(1) – Process to file an appeal

The appellant shall file two copies of the written appeal with the land use director. The appeal shall be filed on a form provided for that purpose and shall be verified, signed by the appellant under oath and notarized.

H. 14-3.17(D)(6) – Conformity of appeal

The land use director shall promptly review all appeals for conformity with the requirements of Section 14-3.17. Upon determining that an appeal does not conform to the requirements, the land use director shall refer the matter to the city attorney for review.

(a) If the city attorney concurs with the land use director's determination, the city attorney's written recommendation shall be forwarded to the governing body for discussion. The governing body may accept the city attorney's written recommendation and the decision is final and may be appealed to district court. If the governing body does not accept the city attorney's recommendation, the appeal shall be heard as set forth in Chapter 14.

I. 14-3.17(H)(3) – Land Use Board Review *(If appeal is heard by Board of Adjustment)*

(A) the land use board shall conduct a public hearing in accordance with adopted procedures and may reverse or affirm, in whole or in part, or may modify the final action appealed in accordance with the provisions of this section and shall have the powers of the land use director at the time the final action was taken. The hearing shall be de novo.

J. 14-2.2(G) – Governing Body *(concerning finality of Board of Adjustment's decision)*

The governing body delegates its authority for hearing appeals of decisions of the land use director to the respective land use board as set forth in Chapter 14. Final actions of a land use board on the appeal of a decision of the land use director shall not be heard by the governing body. That appeal shall be filed in district court.

Exhibit A
Case #2021-3813

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Roman "Tiger" Abeyta, District 3
Chris Rivera, District 3
Jamie Cassutt-Sanchez, District 4
JoAnne Vigil Coppler, District 4

May 24, 2021

Via U.S. Certified Mail (Return Receipt Requested) and Email

Charles LaCalle
521 ½ W. San Francisco St.
charleslacalle@gmail.com

RE: Notice of Revocation of Short-Term Rental Permit at 521 ½ West San Francisco Street

Mr. Charles LaCalle,

In December of 2020, the Governing Body of the City of Santa Fe adopted Ordinance No. 2020-35, which substantially changed the City's rules and regulations governing short term rental (STR) units within the City, effective January 1, 2021. In mid-January 2021, after the effective date of Ordinance No. 2020-35, the Planning and Land Use Department (Department) received your application for a STR permit at 521 ½ West San Francisco Street.

Although your application was received after the effective date of the new regulations, the Department reviewed your application under the previous regulations, as set forth in Ordinance No. 2016-33. The Department applied the previous, more permissive regulations because you had made a good faith effort to submit the application in 2020, and your failure to timely submit an application before the deadline was due in part to inaccurate information on the City's website. In your previous communications with Department staff, both over the phone and via email, you expressed that you had tried to apply for a STR permit prior to the effective date of the new ordinance but were unsuccessful in your attempts to submit an application via the City's online Customer Self Service (CSS) system. You then tried to contact staff using an incorrect email address that was listed on the City's website.

Under these circumstances, the Department reviewed and approved your application based on the previous STR Ordinance, which was adopted in 2016 (Ord. No 2016-33). The Department issued a STR permit to you for your dwelling unit at 521 ½ West San Francisco Street on March 3, 2021. Since that time, a neighboring property owner has asked that the City review your application to determine if your permit was issued in error.

After careful review of the rules and set forth in Ordinance No. 2016-33, I have determined that the Department issued your STR permit (Permit # STR-229221) in error. Specifically, your property at 512 ½ West San Francisco Street did not qualify for a permit due to the proximity restrictions set forth in Ordinance No. 2016-33, which prohibited the issuance of permits to more than two dwelling units that share a common boundary along a public street frontage, as follows: *"short-term rental permits will not be issued for more than two short-term rentals units directly adjoining each other on a residentially zoned street. For the purposes of this subsection, 'directly adjoining' means sharing a common boundary along a public street frontage, but does not include adjoining units in a condominium, townhouse development, in an apartment complex, or residential compound".* Santa Fe City Code (SFCC) 1987, Section 14-6.2(A)(5)(c)(ii) (2016, prior to 2020 amendments). The property owners at 521 and 523 West San Francisco Street both have STR permits that preexist yours, and therefore your property represents a third unit sharing a common boundary along a public street frontage.

The City's Land Development Code defines a **"Street Frontage"** as *"The length of the boundary of the premises abutting the street ."* SFCC § 14-12.1. The Code defines a **"Street"** as *"A right-of-way dedicated to public or private use to provide primary vehicular and pedestrian access to adjoining properties and is any public thoroughfare and the approach to a public thoroughfare, the boundaries of which extend to the abutting property line." Id.* The driveway access used by you and your adjoining neighbors qualifies as the *"approach to the public thoroughfare"* as referenced in the definition provided above. Because you and your neighbors at 521 and 523 W. San Francisco share common boundaries with that driveway access, which is part of the public street frontage, your property was ineligible to receive a STR permit. Your STR permit, Permit #STR-229221, was issued in error and in violation of the City's Land Development Code, Chapter 14 of the SFCC.

The Land Development Code authorizes the Land Use Director to revoke permits issued in error. *See* SFCC §§ 14-2.11(B)(8); 14-11.4(A)(2)(a); 14-11.4(D). Under this authority, I am providing you with two options:

1. Your STR permit will be revoked, effective immediately, and the Department will refund you the fee for both the STR Permit and the associated Business License ($325).
2. You may keep your STR permit for the remainder of calendar year 2021 but will not be allowed to renew your existing permit in 2022. If you choose this second option and continue to operate your STR for the remainder of the calendar year, you must adhere to all rules governing the renting of STR units in the City, including but not limited to the one (1) stay per seven (7) day period provision. *See* SFCC § 14-5.2(A)(5)(c)(v) ("A permitted short-term rental unit shall not be rented more than once within a seven (7) day period. The limitation set forth in this subparagraph shall not apply to rentals that begin between November 15 and January 15.").

Whichever option you choose, you may reapply for a new permit at any time. However, a new application will be reviewed in accordance with the regulations set forth in Ordinance 2020-35, including but not limited to the new proximity limitations, which prohibit the issuance of a STR permit to a residentially zoned property that is located within fifty feet (50') of the property line of a property with an existing STR permit. At this time, both 521 and 523 West San Francisco Street have existing STR permits and are located within 50' of your property line.

Please contact me within fifteen (15) days of the issuance of this notice and let me know which option you choose. If I do not hear from you within fifteen (15) days, I will assume you are choosing the first option, revoke your STR permit immediately, and direct Department staff to process your refund.

This written notice of revocation is a final decision of the Land Use Director, which may be appealed. *See generally* SFCC § 14-3.17 (appeals). To appeal, you must file an appeal petition within fifteen (15) days of the issuance of this written notice and pay an appeal fee of two hundred dollars ($200). A timely filed appeal petition would be submitted to the City's Board of Adjustment for consideration at a public hearing. An appeal would suspend the revocation of your permit, pending the Board's issuance of a final written decision in this matter.

Regards,

Elias Isaacson

Elias Isaacson
Planning and Land Use Director

cc: Jarel LaPan Hill, City Manager
Jason Sena, Zoning Enforcement Supervisor
Sally Paez, Assistant City Attorney

Exhibit B
Case #2021-3183

LUD Use Only

Time Filed: _____
Fee paid: $_____
Receipt attached:)

(date stamp)

VERIFIED APPEAL

PETITION

Two originals of this form must be filed. The Land Use Department Director or his/her designee will enter the date and time of receipt and initial both originals. See Section 14-3.17(D) SFCC 2001 for the procedure.

Appellant Information

Name: LaCalle (Last) Charles (First) (M.I.)

Address: 521 1/2 W. San Francisco (Street Address) (Suite/Unit #)
Santa Fe (City) NM (State) 87501 (ZIP Code)

Phone: (337) 580 3019 E-mail Address: charlespcalle@gmail.com

Additional Appellant Names:

Correspondence Directed to: ☒ Appellant ☐ Agent ☐ Both

Agent Authorization (if applicable)

I/We: _____

authorize _____ to act as my/our agent to execute this application.

Signed: _____ Date: _____

Signed: _____ Date: _____

Subject of Appeal

Project Name: STR Revocation

Applicant or Owner Name: Charles LaCalle

Location of Subject Site: 521 1/2 W San Francisco

Case Number: none provided Permit Number (if applicable): STR 229221

Final Action Appealed:

☐ Issuance of Building Permit ☒ Other Final Determination of LUD Director

Final Action of Board or Commission (specify): ☐ Planning Commission ☒ Board of Adjustment ☐ BCD-DRC ☐ HDRB

Basis of Standing (see Section 14-3.17(B) SFCC 2001):

Basis for Appeal: ☒ The facts were incorrectly determined ☐ Ordinances/laws were violated and/or misrepresented

Description of the final action appealed from, and date on which final action was taken:

Appealing letter sent to me on May 25

☐ Check here if you have attached a copy of the final action that is being appealed.

Description of Harm

Describe the harm that would result to you from the action appealed from (attach additional pages if necessary):

see attached

Explain the Basis for Appeal

Please detail the basis for Appeal here (be specific):

see attached

Signature and Verification

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 2001. Failure to meet these standards may result in the rejection or postponement of my application. I also certify that I have met with the City's Current Planning staff to verify that the attached proposal is in compliance with the City's zoning requirements.

Appellant Signature: _____ Date: 6-9-21

Agent Signature: _____ Date: _____

State of New Mexico)
) ss.
County of Santa Fe)

I/We Charles La Calle, being first duly sworn, depose and say: I/We have read the foregoing appeal petition and know the contents thereof and that the same are true to my/our own knowledge.

Appellant/s:

_____ _____
Signature *Signature*

Charles LaCalle _____
Print Name *Print Name*

Subscribed and sworn to before me this 9 day of June, 20 21.

VERNIA C THOMPSON NOTARY PUBLIC STATE OF NEW MEXICO

Virginia C Thompson
NOTARY PUBLIC

My commission expires:
9/25/2023

I am writing to request an appeal of the decision to revoke the STR permit of 521 ½ W San Francisco Street on the basis that the facts were incorrectly determined. After speaking with numerous city officials and citizens of Santa Fe familiar with the STR office, I also believe this is an extraordinarily complicated case and pertains to issues not covered in the municipal code. After requesting information on similar cases from the Land Use Department and the city's legal team, no one could point to a single case matching these conditions. With this in mind, I am requesting an exception to allow me to keep my STR permit.

The rationale for the permit revocation concerned adjoining units with frontage on a public street:

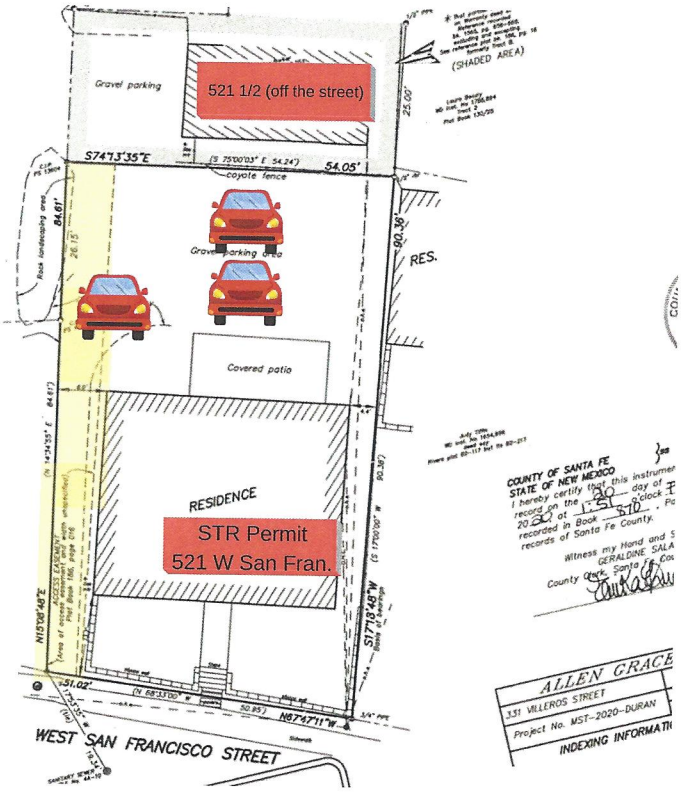
> *The "short-term rental permits will not be issued for more than two short-term rentals units directly adjoining each other on a residentially zoned street. For the purposes of this subsection, 'directly adjoining' means sharing a common boundary along a public street frontage, but does not include adjoining units in a condominium, townhouse development, in an apartment complex, or residential compound". Santa Fe City Code (SFCC) 1987, Section 14-6.2(A)(5)(c)(ii) (2016, prior to 2020 amendments). The property owners at 521 and 523 West San Francisco Street both have STR permits that preexist yours, and therefore your property represents a third unit sharing a common boundary along a public street frontage.*

I understand the logic of this rule and accept that rationale. That being said, there has never been an issue with cars parking on the street frontage or causing traffic congestion on the residential street in question. There has never been a single incident reported to me or, to my knowledge, to the Land Use Department, with STR guests causing traffic issues or congestion or anything related to W. San Francisco Street.

Driveway vs. Access Easement

I am making this appeal that facts were incorrectly determined in this case because my property does not have public street frontage on a residentially zoned street.

In this diagram, the yellow highlight shows my designated 'access easement' which enables me to enter my parking area (my house is at the top part of the diagram).



In the permit revocation, the "driveway" mentioned is actually an "access easement," defined and displayed on multiple approved plats dating back nearly 70 years. The raison d'être of an "access easement" is related to the fact that the house needing the access easement does not have frontage on a residentially zoned street. The basis for the permit revocation, that the house sits on a residentially zoned street because of a "driveway," is not technically correct. An 'access easement' is not simply a "driveway" but a legally defined road that gives people or a person access to their property because it is so separated from the street that it necessitated an "access easement."

Access easements are not driveways, and I do not believe that an access easement causes my property to have frontage on the residential street. Access easements are governed the same way as private roads, in many cases, even within the Santa Fe municipal code. These easements can have their own speed limits and their own regulations of traffic conditions.

See One Example from the Santa Fe Municipal Code:

> 24-10.2 - Regulation of speed and traffic conditions on private roads. A.Private property owner(s) or homeowners' associations may request that the city regulate the speed and traffic conditions on private roads owned by said private property owner(s) or homeowners' association.B.The private road shall:(1)Be located within the city limits;(2)Connect directly to an existing public road within the city limits;(3)Be officially shown as a private road or access easement on an approved plat;

To determine that my property had frontage on a residentially zoned street, the permit revocation used an expansive, hard-to-define interpretation of the word "street" and claimed that all the neighbors shared a "driveway" and that the "driveway" was an approach to a public thoroughfare, thus meaning my property had public street frontage.

If the municipal code had intended to include access easements as part of this definition, I believe they would have stated that explicitly. The Santa Fe municipal ordinances frequently use the phrases "access easement" and "private roads," often interchangeably. If the regulation in question in the revocation were meant to include "access easements" and "private roads" as interchangeable with "driveways," I believe that it would have been written that way. I also believe that 'access easements' were specifically not included in that section of the municipal code because they are for properties that specifically do not have public street frontage.

I realize that this is a very unique case. My access easement is shorter than most, but this access easement was granted specifically because I do not have public street frontage. I feel that the decision to now revoke my permit on the opposite grounds is unfair. In addition, if the city reasons from a legal perspective that the easement is actually my driveway onto a public street, that would set off a cascading set of ramifications, as I bought the home based on the existence of an access easement and would be dealing with a fraudulent title and boundary survey.

Residential Compound and the Spirit of the Law

STR regulations make explicit exceptions for what the words "directly adjoining" do not include:

> *adjoining units in a condominium, townhouse development, in an apartment complex, or residential compound.*

I also understand the rationale for these exceptions, because in practice these types of dwellings are unique in the sense that they may in theory share public street frontage, but they do not in effect cause any issues with the flow of traffic on a residentially zoned street.

If the city establishes the precedent of treating an "access easement" (which is essentially a road on its own) as a 'driveway," then I believe we would need to re-classify all the neighboring houses as part of a "residential compound." This compound of homes would be functioning in the same way an apartment complex or residential compound (as defined by the municipal code) would function. So if the city determines that the access easement is a driveway,I would seek an exception for my permit revocation based on the grounds that those types of dwellings are also granted exceptions.

Conclusion

This house is my primary home. I am not using this STR permit to rent out a second residence, as is the case with many homes granted STR permits. This permit has been a lifeline to allow me to purchase a new roof for the house and make necessary upgrades. I have not gained a dollar of personal profit from the STR permit.

I am seeking this reservation with the support of my 3 neighboring property owners. I have never received a complaint about a single guest who rented out the STR property. In fact, the location of

the home near the Plaza and near the Railyard ensures that most renters visiting Santa Fe rarely even need to use their vehicle at all, since everything is within walking distance.

I am seeking an exception in this case also because I believe that the spirit of the regulation in question was designed to avoid revocations of this nature. If my permit is revoked, the city will be redefining the definition of an access easement, equating it to a driveway, and stating that I am legally required to let my neighboring property use my driveway for their own STR guests while revoking my own right. This would also have implications for every single property in Santa Fe set off from the road on its own access easement, and I do not believe that the Land Use Department is conducting a review of all these cases. This permit revocation was singular in nature.

As I stated in the beginning, this is an extraordinary case. And I am hoping you understand my logic for submitting this appeal.

Thank you for your time and consideration.

Sincerely,

Charles LaCalle

Exhibit C
Case # 2021-3183

From: ISAACSON, ELIAS S.
Sent: Wednesday, June 16, 2021 8:10 AM
To: PRINZ, MICHAEL N.
Cc: PAEZ, SALLY A.
Subject: RE: STR Permit Revocation Appeal - 521 1/2 San Francisco

Hello Mike,

I have reviewed the appeal and have determined that it does not conform to the requirements of Section 14-3.17(D)(6) because the appeal was not timely filed. The notice of permit revocation was sent by certified mail on May 24, 2021 in accordance with Section 14-11.3(D)(1)(b) ("The land use director... may revoke an approval that he or she has granted upon written notice delivered to the permittee by hand, by posting a notice on the property where the violation occurs, or by certified mail with return receipt requested."). The revocation notice was a final action of the land use director. Under Section 14-3.17(C)(1)(c), the deadline to appeal the final action of the land use director was 15 days after it was issued. In this case, any appeal needed to be filed no later than June 8, 2021. The appeal was mailed on June 9, 2021, after the deadline had passed.

ELIAS ISAACSON AIA | AICP | CBO | LEED AP
Planning and Land Use Director
City of Santa Fe Land Use Department
200 Lincoln Ave. | Santa Fe, NM 87504 | 505-955-6730
esisaacson@santafenm.gov
https://www.santafenm.gov/promise

For additional information and updates regarding remote operations:
Land Use Department: https://www.santafenm.gov/land_use
Historic Preservation: https://www.santafenm.gov/historic_preservation
Building Permits: https://www.santafenm.gov/building_permits

Exhibit D
case #2021-3183

7018 1830 0001 2612 1013

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
$ 3.60

Extra Services & Fees (check box, add fee as appropriate)
- ☐ Return Receipt (hardcopy) $
- ☐ Return Receipt (electronic) $
- ☐ Certified Mail Restricted Delivery $ 2.85
- ☐ Adult Signature Required $
- ☐ Adult Signature Restricted Delivery $

Postage
$ .51

Total Postage and Fees
$ 6.96

Postmark Here

MAY 21 2021

Sent To: Charles Lacalle
Street and Apt. No., or PO Box No.: 521 1/2 W. San Francisco St
City, State, ZIP+4®: Santa Fe NM 87501

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

2

POST OFFICE FIRM BOOK FOR CERTIFIED AND INSURED MAIL/RETURNED RECEIPT LOG **DATE:** May 24, 2021

	Article Number	Name of Receiver	Receiver's Address	Postage	Cert. Fee	R.R. Fee	Ins. Fee	Employee & 4digit code	Paul
1	70181830000126131013	Charles Lacalle	521 1/2 W. San Francisco Santa Fe, NM 87501	.51	3.60	2.85		6100-Jason Sena	
2				.51	3.60	2.85			
3				.51	3.60	2.85			
4				.51	3.60	2.85			
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16									

NM FE 87501 MAY 24 2021

City of Santa Fe
P.O. Box 909. Santa Fe. New Mexico 87504

Total # of Pieces Listed by Sender	Total # of Pieces Received at Post Office	Post Master, Per Name of Receiving Employee
1	1 TC	

MIDTOWN SANTA FE



Governing Body – Progress Report

JULY 14, 2021

NINE-STEP ACTION PLANS

1. City As Master Developer (Cancel RFEI Solicitation)
2. Rezone Site (Development Framework Plan)
3. Plan for Infrastructure
4. Reuse Existing Buildings for Community Purposes
5. Prepare Site and Buildings for Reuse and Redevelopment
6. Promote Garson Studies Complex
7. Identify Parcels for Mixed-Income and Affordable Housing Development
8. Access and Establish a Public Funding Mechanism
9. Engage the Public for Development Planning

(From Memo to Governing Body, from Rich Brown, Director of Community & Economic Development, dated March 26, 2021)

ACTION PLAN – Current Status

#9 Public Engagement for Development Planning

MIDTOWN PLANNING SESSIONS

LISTENING SESSIONS

July 20, 21, 22:	Tuesday-Thursday
Daytime Sessions:	9:00am - 4:00pm (Convention Center)
Evening Sessions:	6:00pm - 8:00pm (Midtown)
Site Walk & Presentation:	Wednesday, 5:00pm – 8:00pm

WORKSHOP SESSIONS

September 23, 24, 25	Thursday-Saturday
Daytime Sessions:	9:00am - 4:00pm (Convention Center)
Evening Sessions:	6:00pm - 8:00pm (Midtown)
Presentation:	Saturday, 10:00 - Noon

ACTION PLAN – Current Status

#9 Public Engagement for Development Planning

MIDTOWN PLANNING SESSIONS

LISTENING SESSIONS – IDEATION, EXPLORATION

Primary Objective – listen to ideas, generate interests, small group discussions, open public conversations, interact with planners and a site model, share aspirations JULY

WORKSHOP SESSIONS – SYNTHESIZE, DESIGN, CREATE

Primary Objective – synthesize and apply information from Listening Sessions, problem solve and identify real solutions in real time, create strategies that address community concerns and goals, design plans and land uses to achieve a shared public vision SEPTEMBER

ACTION PLAN – Current Status

#9 Public Engagement for Development Planning

EARLY PUBLIC REVIEWS - 2021

Sep 29 - **Governing Body** – recap sessions - information presentation ONLY

Oct 13 – **Governing Body** – introduce resolution to develop land planning application

Oct 18 – **Finance Committee** - presentation, vote on resolution

Oct 20 - **Economic Development Advisory Committee** - presentation, vote on resolution (*to be scheduled*)

Oct 20 - **Quality of Life Committee**, presentation, vote on resolution

Oct 25 **- Public Works Committee** - presentation, vote on resolution

Oct 27 - **Governing Body** – final vote on resolution

ACTION PLAN – Current Status

#9 Public Engagement for Development Planning

MORE PUBLIC FORUMS – FALL 2021

City Councilor District Forums – August (proposed – to be scheduled)

Mayor's City Forum – September (proposed – to be scheduled)

ACTION PLAN – Current Status

#9 Public Engagement for Development Planning

CORE OUTCOMES LEADING TO MIDTOWN DEVELOPMENT

Land Use Plan
- basis for a zoning application and amendments
- draft in 2021 for approvals in 2022
- approvals by Planning Commissions and Governing Body

Development Framework
- basis for a zoning application and amendments
- draft in 2021 for approvals in 2022
- approvals by Planning Commissions and Governing

Community Development Plan
- implementation plan for ensuring public policy requirements and priorities for the development of a Midtown District
- draft and complete in Q3-Q4 2021
- approval by Governing Body

ACTION PLAN – Current Status

#9 Public Engagement for Development Planning

OTHER CRITICAL OUTCOMES FOR REDEVELOPMENT

Metropolitan Redevelopment Area
- Analyze application for Midtown District
- Analyze scope of are to include LINC and Midtown Site

Utility and Core Infrastructure Finance
- Phased infrastructure plan
- Phased financing strategy

Return on Investment
- General economic analysis of city investment return- economic and other policy goals

Midtown Santa Fe: 3 Goal Areas

Long-Term Development Goals

- Higher education
- Housing choices for all incomes
- Film and multimedia industry
- Local community arts and culture
- Technology and innovation

Public Policy Financial Goals

- Generate near-term revenues to pay operating costs (including bond repayment)
- Create long-term value to achieve economic and community development goals

Community Development Goals

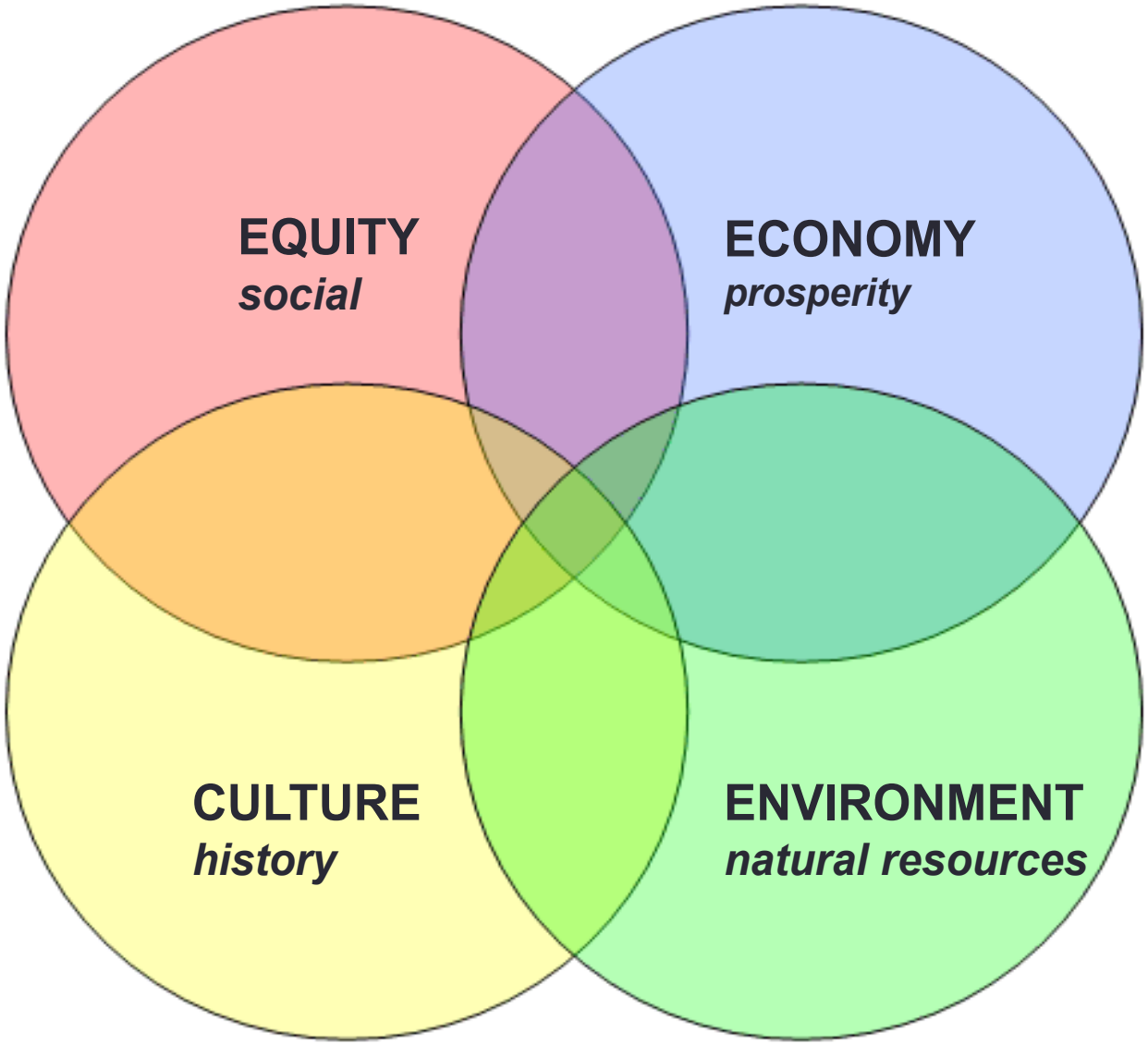
- Public Engagement
  - Inclusive
  - Transparent
- Development
  - Sustainable
  - Equitable
  - Public Open Space and Facilities

Based on the Midtown Planning Guidelines approved by the Governing Body in 2018

Sustainable Development: 4 Elements

Intersections

- Desirability
- Feasibility
- Viability
- Ethically

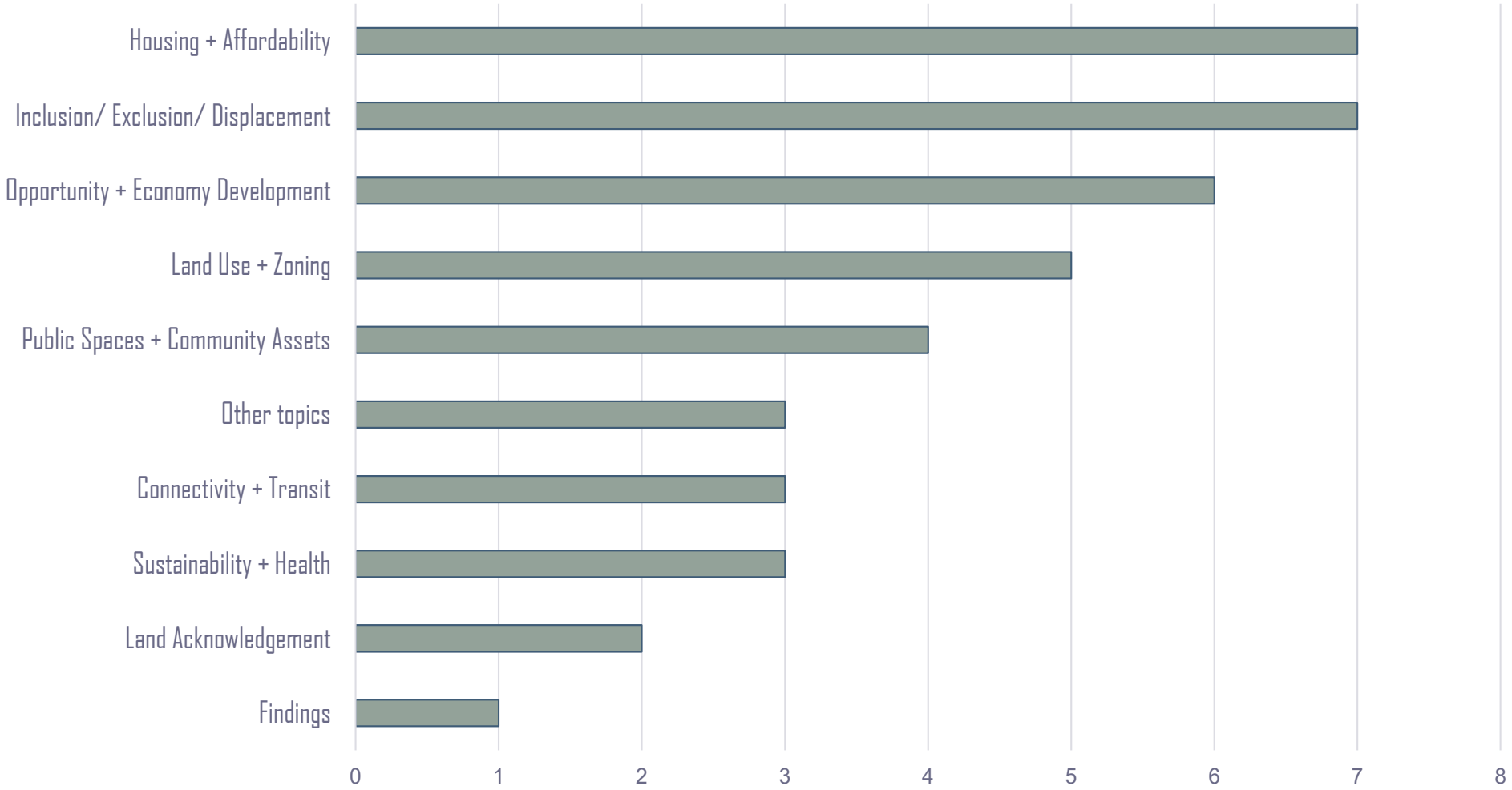


Intersections

- Goals
- Priorities
- Decisions
- Tensions
- Compromises
- Learning
- Evaluating
- Evolving

Brief Survey Summary

What topics would resonate best with your audience?



Environment – Land Development

Infrastructure
- Site resiliency and regeneration
- Water management

Open Space
- Public Gathering
- Parks and parklets

Street and Block Networks
- Circulation and Connectivity

Site Plan
- Density
- Land uses and areas/ zones
- Memory of Place / Land Acknowledgement

District Area
- LINC
- Access and Connectivity
- Adjacent neighborhoods
- Adjacent commercial zone

Land Uses
- Housing Types and Choices
- Affordable housing parcels (early start)
- Inclusionary zoning

Commercial Development
- Film and multi-media
- Technology
- Arts & Culture
- Entrepreneurialism

Existing Buildings
- Reused Buildings: community uses (arts, culture, performance and entertainment, library/ learning, film)
- Substandard Buildings: to be demolished
- Other Buildings: temporary and potential long term uses identified through RFPs or Civic uses

Environmental Design
- Healthy District / Inclusive Design
- Green Building and Site Design

Equity – Community Development

Neighborhood Stabilization
- Anti-Displacement

Housing Affordability
- Housing Choices
- Housing needs and priorities

Building Capacity
- Develop local capacity for non-profit and community based approaches to housing and neighborhood development

Economy –Economic Development

Job Creation

Job Access

Job Careers
- Trades and Vocational Training
- Career Education

Economic Development
- Development and Zoning linkages to achieve community development objectives that require subsidy and/or developer incentives

Entrepreneurialism
- Local small businesses
- Commercial space affordability

Culture – Memory of Place

Land Acknowledgement

Arts & Cultural

District Planning and Programming

Community Arts Stabilization

Listening & Facilitating Conversations

How will Midtown be connected to adjacent neighborhoods and commercial areas to create a new city center?

What kinds of public open spaces can and should be in Midtown?

How will existing buildings be incorporated and reused?

Where and what kinds of new housing can be accommodated?

What type of commercial development is possible to generate new jobs and career paths?

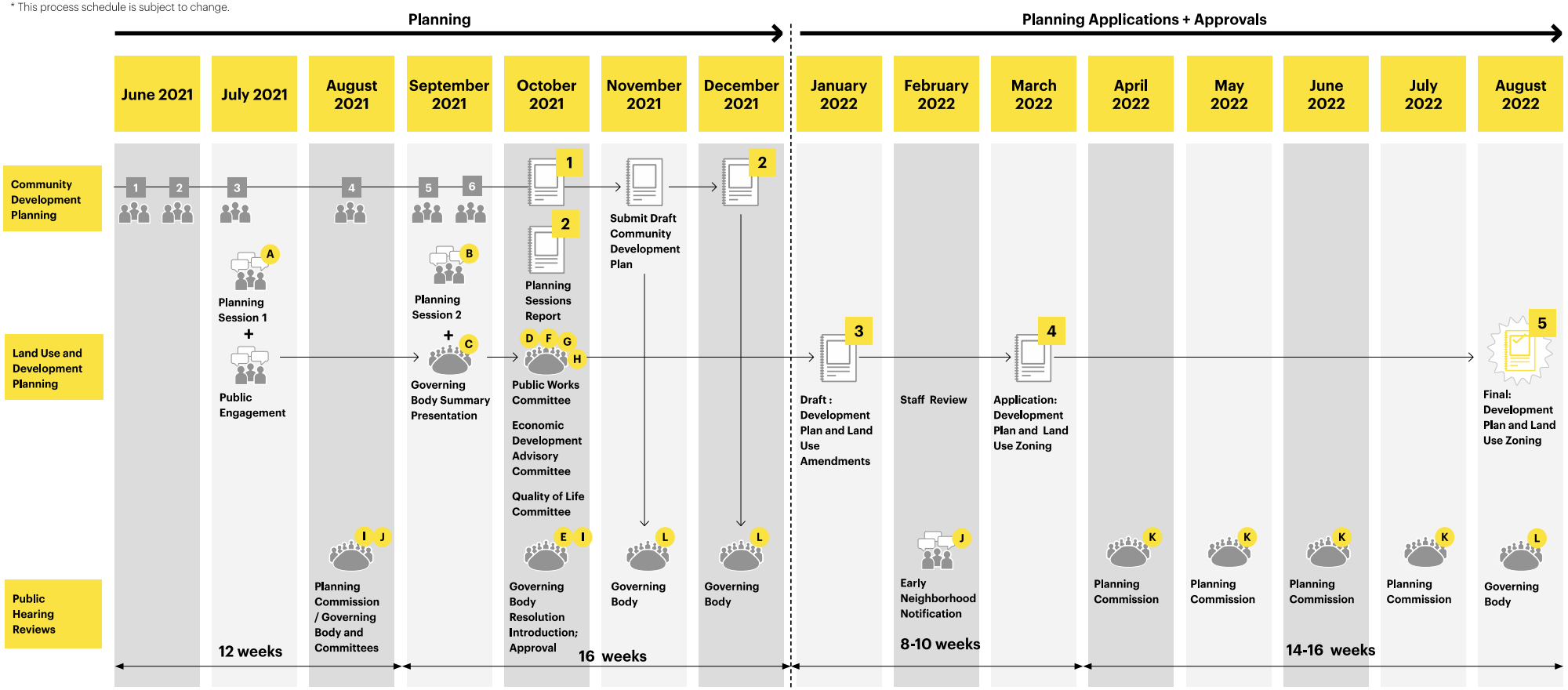
What are green building and environmentally responsible site planning strategies that can be implemented at the Midtown Site?

How can the land be reused and acknowledged to create a place that is truly Santa Fe recognizing its culture, people and history?

Midtown District - Development Planning Timeline*

Revised July 8, 2021

* This process schedule is subject to change.



Community Conversations

1. Housing Production (June)
2. Housing Security (June)
3. Opportunity (July)
4. Culture (August)
5. Sustainability (September)
6. Land Acknowledgment (September)

Key Deliverables

1. Draft Community Developement Plan
2. Final Community Developement Plan
3. Draft: Development Plan and Land Use Amendments
4. Application: Development Plan and Land Use Zoning
5. Final: Development Plan and Land Use Zoning

Meetings

- A Planning Session 1 (3 days) July 20-22
- B Planning Session 2 (3 days) September 23-25
- C Governing Body Summary Presentation September 29th
- D Public Works Committee: Presentation, Resolution Vote – October 12th
- E Governing Body Presentation: Introduce Resolution – October 13th
- F Finance Committee: Presentation, Resolution Vote – October 18th
- G Quality of Life Committee: Presentation, Resolution Vote – October 20th
- H Economic Development Advisory Committee: Presentation, Resolution Vote – October 20th
- I Governing Body Resolution Vote October 27th
- J Early Neighborhood Notification Meeting
- K Planning Commission
- L Governing Body

MIDTOWN SANTA FE

For Midtown Information

www.MidtownDistrictSantaFe.com

For community stories and aspirations for Midtown:

https://www.cultureconnects.site/

GOVERNING BODY MEETING OF
July 14, 2021
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY

Mayor Alan Webber		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
	A RESOLUTION REQUESTING APPROVAL OF FOURTH QUARTER BUDGET AMENDMENTS AND ASSOCIATED NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION/LOCAL GOVERNMENT DIVISION (DFA/LGD) SCHEDULE FOR FISCAL YEAR 2020/2021.	Finance Committee – 7/19/21 Public Works and Utilities Committee – 7/26/21 Governing Body – 7/28/21
	AN ORDINANCE AUTHORIZING THE CITY OF SANTA FE ("BORROWER") TO ENTER INTO A LOAN AGREEMENT WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT ("NMED") FOR THE PURPOSE OF OBTAINING PROJECT LOAN FUNDS UP TO THE AMOUNT OF $4,000,000 PLUS ACCRUED INTEREST AND LOAN SUBSIDY GRANT FUNDS IN THE AMOUNT OF $180,000 FOR A TOTAL FUNDED AMOUNT NOT TO EXCEED $4,180,000; DESIGNATING THE USE OF THE FUNDS FOR THE PURPOSE DEFINED IN THE MOST CURRENT PROJECT DESCRIPTION FORM AS APPROVED BY NMED; DECLARING THE NECESSITY FOR THE LOAN; PROVIDING THAT THE LOAN WILL BE PAYABLE AND COLLECTIBLE SOLELY FROM THE BORROWER'S PLEDGED REVENUES DEFINED BELOW; AND PRESCRIBING OTHER DETAILS CONCERNING THE LOAN AND THE SECURITY THEREFORE.	Finance Committee – 7/19/21 Public Works and Utilities Committee – 7/26/21 Governing Body – 7/28/21
	A RESOLUTION AUTHORIZING THE ASSIGNMENT OF AUTHORIZED OFFICER(S) AND AGENT(S) FOR PROJECT NUMBER CWSRF 088.	Finance Committee – 7/19/21 Public Works and Utilities Committee – 7/26/21 Governing Body – 7/28/21
	A RESOLUTION EXTENDING THE DURATION OF THE WORK OUTLINED IN RESOLUTION NO. 2021-6 REGARDING COMMUNITY CONVERSATIONS ON SANTA FE'S CULTURES, HISTORIES, ART, RECONCILIATION, AND TRUTH.	Quality of Life Committee – 8/4/21 Public Works and Utilities Committee – 8/9/21 Governing Body – 8/11/21
Councilor Roman "Tiger" Abeyta		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
Romero-Wirth Cassutt	**AN ORDINANCE AMENDING SECTION 11-13 TO INCREASE THE CITY MANAGER'S CONTRACT**	Public Works and Utilities Committee – 7/26/21

This document is subject to change.

	APPROVAL AUTHORITY TO TWO HUNDRED AND FIFTY THOUSAND DOLLARS.	Governing Body (request to publish) – 7/28/21 Finance Committee – 8/2/21 Governing Body (public hearing) – 8/25/21
Councilor Jamie Cassutt		
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***
	A RESOLUTION AUTHORIZING THE CONSUMPTION OF ALCOHOL DURING A WINE TASTING EVENT PRODUCED BY THE SANTA FE WINE AND CHILE FIESTA, A NON-PROFIT ORGANIZATION, ON CITY PROPERTY DURING A FRIDAY IN SEPTEMBER, 2021-2024, PURSUANT TO SUBSECTION 23-6.2(B) SFCC 1987.	Finance Committee – 7/19/21 Quality of Life Committee - 7/21/21 Governing Body – 7/28/21
Councilor Chris Rivera		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
Abeyta	**A RESOLUTION ACCEPTING A MUNICIPAL ARTERIAL PROGRAM ("MAP") COOPERATIVE GRANT IDENTIFIED AS CONTROL NUMBER L500473; AND ACCEPTING A LOCAL GOVERNMENT ROAD FUND ("LGRF") GRANT IDENTIFIED AS CONTROL NUMBER L500444 FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION ("NMDOT") FOR THE PLANNING, DESIGN, CONSTRUCTION, RECONSTRUCTION, PAVEMENT REHABILITATION, CONSTRUCTION MANAGEMENT, DRAINAGE, TRAFFIC SIGNAL IMPROVEMENTS, AND MISCELLANEOUS IMPROVEMENTS OF CIP 853C - AGUA FRIA AND SOUTH MEADOWS ROAD INTERSECTION IMPROVEMENTS PROJECT.**	
Councilor Carol Romero-Wirth		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
Councilor JoAnne Vigil Coppler		
Co-Sponsors	**Title***	**Tentative Committee Schedule***

	Councilor Renee Villarreal	
Co-Sponsors	**Title***	**Tentative Committee Schedule***
	AN ORDINANCE RELATING TO CLOSED CAPTIONS; CREATING A NEW SECTION 7.5 SFCC 1987 TO REQUIRE PLACES OF PUBLIC ACCOMODATION TO ACTIVATE CLOSED CAPTIONING ON TELEVISION RECEIVERS.	Quality of Life Committee – 8/4/21 Governing Body (request to publish) – 8/11/21 Mayor's Committee on Disability – 8/19/21 Finance Committee – 8/30/21 Governing Body (public hearing) – 9/8/21

* 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, jbguillen@santafenm.gov or Jeff Norris, 505-955-6692, jtnorris@santafenm.gov.

City of Santa Fe New Mexico
Memorandum

Date: June 24, 2021

To: Mayor Alan Webber

Via: Kristine Bustos-Mihelcic, City Clerk / Community Engagement Director

From: Romella Glorioso-Moss, PhD, AICP, BPAC Staff Liaison RGM

Cc: Councilor Michael Garcia, BPAC Chair

RE: Councilor Garcia's recommendations for BPAC Appointments 2021-2023

Below is the list of City residents that Councilor Michael Garcia, as BPAC Chair, wishes to recommend to Mayor Alan Webber for 2021-2023 BPAC appointments (July 1, 2021 through June 30, 2023) except for Mr. Tony Gerlicz who will be serving the remainder of Mr. Sky Tallman's term. Also attached are their resumes for your reference.

Name	Address	E-mail/Telephone No.	Term/Council District
Yolanda Eisenstein	Santa Fe 87501	_____	Re-appointment for 2nd term representing **District 1**
Tony Gerlicz	Santa Fe, NM 87505	_____	Replacing Mr. Sky Tallman who will be resigning on July 30, 2021 serving 2nd term. Mr. Gerlicz's term will begin August 1, 2021 thru June 30, 2022 and will represent **District 2.**
Ben Pingilley	Santa Fe, NM 87507	_____	First Term representing **District 3.**
Michelle Hoffman, MA, LPCC	Santa Fe NM 87507	_____	First Term representing **District 3.**
Phil Lucero, MA	Santa Fe,	_____	First Term representing **District**

Name	Address	E-mail/Telephone No.	Term/Council District
	New Mexico 87505		**4.**
Terence G. Foreback, PE	Santa Fe, NM 87507		First Term representing **District 4.**

If you have any questions, please don't hesitate to email me at rsglorioso-moss@santafenm.gov or call X6623.

Thank you.

Attachments: 6 Resumes

Yolanda Eisenstein

SUMMARY

Adjunct professor of law, attorney, and writer with legal expertise in animal, nonprofit, and wildlife law. Published author and editor of three legal guidebooks. Experience in lobbying, legislation, and public policy. Avid biker, hiker, and runner.

EDUCATION

J.D., SMU Dedman School of Law, *cum laude* (licensed in New Mexico and Texas)
B.A., Arts and Humanities, *magna cum laude*, University of Texas at Dallas

EXPERIENCE

SMU Dedman School of Law — 2009 – 2019

Adjunct Professor of animal law and wildlife law.

- Animal law curriculum includes consumer, criminal, property, and torts law.
- Wildlife law curriculum covers state and federal statutory schemes, administrative law, and international law.

Eisenstein Law Office — 2007 – 2017

Attorney with a solo practice in nonprofit, animal, and wildlife law.

- Represented clients in cases involving constitutional matters, consumer fraud, breach of contract, dangerous dogs, pet trusts, and wrongful death.
- Worked in various areas of nonprofit law including 501(c)(3) formation, federal and state compliance, reporting, and board governance.
- Researched and wrote local and federal grants.

Texas Humane Legislation Network — 2009 – 2019

Board member of the oldest Texas-based animal protection 501(c)(4) lobbying organization in the state.

- Monitored the legislative and public policy environment; developed the legislative agenda; drafted, edited, and reviewed bills; and, secured sponsors.
- Evaluated bills submitted during the session and lobbied in opposition or support.

Human Rights Initiative — 2004 – 2007

Legal Director for a nonprofit that provides pro bono representation to asylum seekers.

- Represented clients in the areas of political asylum, human trafficking, international domestic violence, and other human rights abuse cases.
- Researched the laws, politics, and cultures of Asian, Middle Eastern, and Sub-Saharan African countries in order to represent victims in asylum hearings.

Belo Corp. — 1996 – 2001

Director of Corporate Communications for one of the nation's largest public media companies.

- Produced annual reports, quarterly financial statements, press releases, and financial presentations.
- Worked on the mergers and acquisitions team during the acquisition of newspaper companies and television stations in seven U.S. markets.
- Managed communications activities with corporate stakeholders.

Yolanda Eisenstein

PROFESSIONAL ORGANIZATIONS

State Bar of New Mexico, Board Member of the Animal Law Section

American Bar Association, Former Chair of the Animal Law Committee

- Awarded the Excellence in Animal Law Award in 2017

State Bar of Texas Animal Law Section, Two-time Chair of the Animal Law Section

PUBLISHED WORKS

Books

- *The American Bar Association Legal Guide for Dog Owners*, ABA Publishing.
- *Animal Cruelty: A Multidisciplinary Approach to Understanding* (contributor to a multi-authored work) North Carolina Academic Press.
- *Careers in Animal Law*, American Bar Association Law Practice Management Publishing.
- *Wildlife Law & Ethics: A U.S. Perspective* (co-editor) ABA Publishing.

INTERESTS, ACTIVITIES

Cyclist, Runner, Hiker

- Group biking trips to Maine, Martha's Vineyard, and Italy.
- Bike tours in cities including Cincinnati, Detroit, Miami, Montreal, San Francisco, Toronto, and Vancouver.
- Experience on the bike trails of Dallas, including the Katy Trail, Santa Fe Trail, and White Rock Lake trails.
- Completed six marathons – Austin, Cape May, Dallas, Houston, Toronto, and Vancouver.

Tony Gerlicz



Bilingual English ←→Spanish

WORK HISTORY:

- **2017 - Present: Semi-retired:** Consultant to school projects, board memberships, Volunteer work

- **2014 – 2017: Founding Principal, Mandela International Magnet School (MIMS):** MIMS is the first public school of choice and first public International Baccalaureate (IB) school in Santa Fe; opened in August, 2015 with 50 students each in grades 7 & 8 adding a new 7th grade each year until a 7 – 12 school offering MYP and DP; has achieved full authorization as an IB World School in both MYP and DP; responsible for all start-up and implementation phases of the school, including interfacing with local and national organizations, raising money and establishing a three-year partnership with Harvard's Project Zero.

- **2012 – 2014, Director, Charter School Division, NM Public Education Department:** As member of the Secretary's cabinet, directed office that oversees 100+ NM charter schools, and Home Schools. Provided training, technical assistance, oversight, evaluations and recommendation for approval/non-approval of new applications, and renewal/non-renewal of existing charters. Led monthly meetings of the Public Education Commission. Worked with national organizations on charter issues.

- **2008 – 2012, Director American School of Warsaw, Warsaw, Poland:** Directed PK – 12, 940 student international school in all aspects of school life. ASW is the premier international school in Warsaw serving the diplomatic and international ex-patriot community of Warsaw since 1953; considered one of the leading International Schools in the European Region and is an IB School. Duties included: Led school through strategic plan process; Guided building of Poland's first LEED certified school building; Created comprehensive Service-Learning program; Placed students and teachers on Board subcommittees; Expanded, led and evaluated Administrative Leadership Team; Presented at various conferences (see below). Brought Jane Goodall to ASW and to Warsaw to host the CEESA (Central and Eastern European Schools Association) conference, Spring 2012.

- **1999 – 2008, Founder and Head Learner, Monte del Sol Charter School, Santa Fe, NM:** Founded, staffed and led Santa Fe's first secondary charter school in 2005. Results included annual retention rates of 90%, graduation rates of 95% with very diverse population, 90% of graduates attended local and distant universities; received national award for school's mentorship program; in 2006-2008, directed technical assistance trainings for emerging charter schools and veteran charter school leaders in New Mexico; hosted Peter Senge, Lech Walesa, Alice Waters, Howard Zinn, Huston Smith, Matthew Fox, Jimmy Santiago Baca, Pat Mora and more; 10:1 ratio of applicants to positions available; established partnerships with host of educational institutions; established sister schools relationships with Oaxaca, Mexico, Tsuyama, Japan, Nantes, France, Holguin, Cuba; instituted sustainability program; launched capital campaign and annual fund drives.

- **1993 - 1999, Head of Upper School, Graland Country Day School, Denver, Co.** Provided direction, guidance, organizational, curricular, instructional leadership to teachers, students, parents for private school; ● Increased student-of-color enrollment and retention; instituted comprehensive service-learning program involving all students; developed leadership among staff and students; taught math, Current Issues, substituted frequently.

- **1989 - 1993, Director, The Oregon Governors' School for Citizen Leadership:** Founded, created**,** funded and staffed non-profit, multicultural educational organization, to join the 38-state national organization of Governors' Schools.

- **1989-1992, Academic Dean, College Counselor and Teacher, Valley Catholic H.S., Beaverton, Or**. Part-time while developing Oregon Governors' School.

- **1986-1988 M.S. & H.S. Principal**, **The American International School, Nido de Aguilas, Santiago, Chile**. Nido de Aguilas is the International School of Santiago, accredited through SASC. ● Implementation, supervision, training, support, evaluation of three separate curricula: the IB, the North American College Preparatory, Chilean Bachilerato; ● Led school to initial IB authorization; ● Design and implementation of special curricular programs such as: TOK weekends, Andes Experiment, Leadership Weekends, Leadership Challenge;

- **7/85 - 12/85, Teacher**, **Colegio Roosevelt ,Lima, Peru** (the American School of Lima, Peru) H.S. Math and computer
- **1980 - 1985**, **Teacher**, **Catlin Gabel School, Portland, Oregon.**
  ● High School mathematics, grades 9 - 12; ● Head, community service program; ● Head, network student exchange program; ● Coordinator of school rummage sale; ● Coach, varsity girls basketball; ● Chair, faculty/board liaison committee.
- **1979 - 1980, Teacher**, **Washington-Monroe High School, Portland, Oregon.**
  ● Coordinated and taught Title I, remedial mathematics for inner city high school.
- **1977 - 1979, Teacher**, **Cochabamba Cooperative School, Cochabamba, Bolivia**
  ● High School Math, grades 9 – 12 ● Coach, Varsity Boys Basketball ● American History, grade 11
- **1974 – 1976, Jesuit Volunteer Corps**,
  ● Two years of volunteer service as Head Trial Assistant, Public Defender's Office, Portland,

PRESENTATONS/CONSULTATIONS:

- August 2015, *Value of an IB Education,* to Santa Fe, NM School District; November 2013, *Non-Cognitive Measures of Success* and *Design-Thinking to Improve Decision-Making* at New Mexico Coalition of Charter Schools Conference; July 2012, *Innovative Leadership* in Silicon Valley USA to independent school leaders; April 2012, *Leadership Unplugged, Exploring the Inner Landscape of Leadership* Santa Fe Leadership Center for national educational leaders; ● Summer 2011, IB of the Americas in San Antonio, Fall 2011, IB Europe, Fall 2010, IB Europe, on *CAS, Service-Learning and Leadership Education*; ● Winter 2011, AAIE (Association for Advancement of International Education) San Francisco on *Design Thinking in Schools* ● 2009 ECIS (European Council of International Schools) conference, *Strategic Planning that Aligns*; 2010 ECIS conference on *Strategic Planning that Aligns, One Year Later*; ● 2003, 2005 Presenter, New Mexico Charter School Conference on *Governance through The Five Disciplines;* ● From 2004 – 2008 and again from 2012 to 2014 provided technical assistance to new and emerging charter schools for NM Coalition of Charter Schools and NM Public Education Department; ● Put on regional conferences in assessment, sustainability for NM Charter Schools; ● Numerous board, parent and faculty presentations on diverse issues at ASW, Monte del Sol, Graland School, and in Oregon; ● Taught graduate level class at College of Santa Fe in *Managing Educational Change*, fall 2000; ● Presenter, The National Association of Independent Schools' 1996 national conference, on *Staff Development and Curricular Cohesion through Mapping*; ● Presenter ACIS (Association of Colorado Independent Schools) Fall conference on curriculum; ● Reader for Clinton Administration's Learn and Serve America grants, 1995; ● Oregon Association of Talented and Gifted, 1992; ● Association of Experiential Education on service-learning and leadership, 1992; ● Washington State Governors' School for Citizen Leadership, summers 1989-1991; ● Association of American Schools in South America on curriculum and leadership 1986-1987; ● Oregon State Mathematics Council on change of Geometry curriculum and Whole Brain learning, 1985, 1984;

AREAS OF EXPERTISE

- **Leadership development:** ● Lead start-up faculty for Mandela International Magnet School; ● Empowered teachers to take leadership positions in ASW and at all schools; ● Have led cohort groups for emerging charter schools and veteran charter schools; ● Developed leadership curriculum for the Oregon Governors' School. ● Led effort to write student-generated Honor Code at Graland.

- **Communication**: ● Have a collaborative and inclusive style with diverse groups of people and involve staff in decision-making, planning, evaluation, etc. ● Communicate effectively with the spoken and written word with diverse groups of students, parents, board members, international community; ● Run meetings successfully and use humor effectively; ● Fully bilingual in English and Spanish, learned a modicum of Polish.

- **Strategic planning**: ● Directing IB authorization process for MIMS; ● Created Advisory Board for MIMS and guided creation of Vision, Mission and Core Values and organizational structure for new school; ● Guided ASW through Strategic Planning including the establishment of internal and external goals, accreditation and presented on its successes at international conferences; ● Steered Monte del Sol through Strategic Planning; ● Helped develop vision, mission statements for MIMS, ASW, Graland, the American International School of Santiago and others;

- **Organizational design:** Created design for new public start-up magnet school in Santa Fe (MIMS) ● Guided ASW through re-write of its Vision, Mission and Core Values through Strategic Planning process; ● Expanded ASW's leadership team to include Curriculum, Technology and Athletics / Activities; Placed teachers and students on Board sub-committees; ● Implemented comprehensive Service-Learning Program PK – 12. ● Restructured CAS in the IB to focus on Leadership Education; ● Created teams in the HS, including for IB to better coordinate curriculum, instruction, assessment and co-curricular work; ● Have started a charter school from the ground up, including: establishing the

mission, recruiting and organizing a Board, finding necessary resources, raising funds, developing program materials and curriculum, hiring staff, and recruiting students.; ● Provided organizational training to NW Charter Schools and Boards;

- **Curriculum design and evaluation:** ● Created Director of Curriculum for ASW School Leadership Team to ensure cohesion and consistency in curriculum; ● Created PK – 12 Service- Learning program tied to curriculum; ● Have written curriculum for new school and new courses and utilized essential questions and habits of the mind to align curriculum; ● Implemented the International Baccalaureate curriculum in Santiago and ne IB school in Santa Fe, NM; ● Evaluated instruction and staff in variety of settings.

- **Governance:** ● Consulted and trained New Mexico's Charter Schools on good governance, purpose, roles and responsibilities and effectiveness of Governing Boards; ● Placed students and teachers on ASW Board sub-committees; ● Chosen by US State Department Office of Overseas Schools to assist other International Schools with Board training; ● Worked with ASW Board of Trustees and Friends of ASW Foundation in Board development;

- **Teaching:** ● Have 10 years classroom teaching experience, have taught in diverse settings, including while administering, and have taught a variety of courses at the secondary and adult level including design, mathematics, history, Theory of Knowledge in the IB, and leadership for young people.

EDUCATION:

- Education Administration, Lewis and Clark College, Portland, Or. 1989-92; Licensed in NM.
- M.S.T., Mathematics Education, Portland State University, Portland, Or. 1984;
- B.S., Math, with History, English minors, Manhattan College, NYC, NY. 1974;
- University of London, London, England, 1972-73.
- Religious attendance at national and international annual workshops / conferences.

MISCELLANEOUS:

- Board memberships included: Creativity for Peace, New Mexico; CEESA (Coalition of Central and Eastern European Schools Association); NM Cooking with Kids; Youth Media Project, Santa Fe; NM Coalition of Charter Schools, National Conference on Governors' Schools, Oregon Governors' School for Citizen Leadership, Oregon Association of Talented and Gifted;

- Awarded Summer scholaraship for Harvard Project Zero Summer Institute, summer 2014; Awarded three day course scholarship to Kennedy School of Government, Harvard, for Charter School Leaders, summer 2004; ● Spent eight months on sabbatical with my family, in Oaxaca, Mexico, Jan – June 1999; ● Matsushita fellow through Pacific University to Japan to study Japanese education, summer 1990; ● Traveled extensively in Latin America, and Europe; ● Hobbies include outdoor pursuits, cycling, mountains, reading, and time spent with family; ● Fluent in Spanish, was born in Argentina of Polish immigrants; ● References available upon request.

BEN PINGILLEY

Santa Fe, NM | |

A backend-focused engineer and architect who loves easy integration, fast development, and a DevOps team mentality. Coding in NodeJS for the past six years using containerized applications & CI/CD pipelines.

WORK EXPERIENCE

Senior Backend Software Engineer. The Meta. Remote. (Oct 2020 – Present)
- Designed the backend system from the ground up for the world's top game aim trainer.
- Co-leading a diverse group of developers and operation team members.

Lead Backend Software Engineer. Array. Remote. (Jan 2019 – Sept 2020)
- Architected microservice APIs designed to simplify the process of generating credit reports, enabling identity protection, verifying user identity, and much more using NodeJS & Express.

Integration Architect Consultant. Spectrum, Contract. Denver, CO (Mar 2018 – Oct 2018)
- Virtualization of production stateful APIs using NodeJS & Hapi, Go, Swagger, Docker, and Kubernetes
- Developed a self-service application for Developers and Testers to create mocked stateless REST and SOAP API requests/responses to shorten the software delivery lifecycle

Platform Engineer. ViaWest. Remote. (Sept 2015 – Dec 2017)
- Microservice API development using NodeJS & KOA, Docker, and Kubernetes
- Kubernetes design, implementation, administration, and documentation

Senior Application Engineer / DevOps Engineer. ClickFox. Denver, CO (Dec 2012 – Jul 2015)
- Automated ClickFox's software deployment using Jenkins, custom scripts, and RPMs
- Responsible for root cause analysis of major issues and standardization of deployments

PROGRAMMING LANGUAGE EXPERIENCE

Proficient: Javascript / Typescript (NodeJS), Python, Bash
Familiar with: Javascript (Angular / React), Go, SQL, Ruby, C/C++

TECH STACK EXPERIENCE

Proficient: Docker, GitLab-CI, Kubernetes, Linux variants (Red Hat, SuSE, Debian, and Ubuntu)
Familiar with: MongoDB, PostgreSQL, MSSQL, Nagios, Puppet, Salt, Jenkins, VMware

EDUCATION

Eastern Kentucky University *Bachelor of Science*, Computer Science concentration in Bioinformatics
Minors in Chemistry, Statistics, Electronics Engineering Technology

PUBLICATIONS

Maietta P, Lopez G, Carro A, **Pingilley BJ**, Leon LG, Valencia A, Tress ML. (2014)
"FireDB: a compendium of biological and pharmacologically relevant ligands." *Oxford University Press*

Extracurricular Activities

Rock climbing, mountain biking, hiking, photography, carpentry, metal working, automotive mechanics

Resume

Michelle Hoffman, MA, LPCC

Education

Southwestern College, Santa Fe, NM. MA in Counseling, 2007 - 2011

Lesley College, Cambridge, MA. Graduate studies in Expressive Arts Therapy, 1985

California Institute of the Arts, Valencia, CA. BFA, 1984

Otis/Parsons, Los Angeles, CA. Summer intensive in painting, 1980

Counseling Related Work and Volunteer Experience

Counselor	Private practice	2011 - present
Counselor	Southwestern Counseling Center, Santa Fe, NM	2011 - 2014
Instructor - Coach	Therapeutic dance classes	2006 - present
Counseling Intern	Solace Crisis Treatment Center, Santa Fe, NM	2010 - 2011
Student counselor	Southwestern Counseling Center, Santa Fe, NM	2010 - 2011
Mentor	YODA program Solace Crisis Center, Santa Fe, NM	2007 - 2008
Healthy Cooking Instructor	Therapeutic cooking classes	2007 - present
Facilitator	Survivors art therapy group, Hood River, OR.	2005
Big Sister	Skamania Counseling Center, Stevenson, WA	2000
Mental Health Advocate	Washington Consumer Advocacy Coalition, Olympia, WA	1998 - 1999

Community Related Volunteer/Work Experience

Volunteer	Center for Contemporary Arts	2007 - 2019
Volunteer	Southwest Roots Music	2007 - present
Volunteer	AMP Music Productions	2007 - present
Resident Housing Commissioner	Affordable Housing Board, Santa Fe, NM	2009 - 2010
Lead Gardener/Organizer	Santa Fe County Housing, Santa Fe, NM	2008 - 2011
Painter	Santa Fe County Housing Mural Project	2009
Fund Raiser/Organizer	Gay/Straight Alliance, Santa Fe, NM	2009
Volunteer	Farmer's Market Association	2007 - 2009
Dance Teacher	Community sponsored events	1999 - present
Board member	Church of Universal Oneness, Hood River, OR	2004 - 2006
Reading Tutor	Mill A Elementary School, Mill A, WA	2003 - 2004
Commissioned Artist	Radio Tierra mural project, Hood River, OR	2004

Performer	Worldwide Peace Project, Stevenson, WA	2003
Caterer	We'moon Women's Collective	2003
Caterer	Columbia Gorge Land Trust, Underwood, WA	2002
Commissioned Artist	Puget Sound Blood Bank, Seattle, WA	2001

Related Workshops/Supplemental Education

Workshops include Motivational Interviewing, CRA, somatic therapies, AEDP, grief and loss, Trauma Resiliency Method, sexual trauma, addictions, eating disorders, Alzheimer's, nutrition and mental illness, sacred activism, mindfulness practice, psychodrama, therapeutic writing, art therapy, women's empowerment, nature based ceremony, climate awareness and collapse (Johanna Macy, Jay Early).

Related Experience and Awards

Awarded $2,000 grant from Santa Fe Commissioner Kathy Holian for community garden.	2010
College scholarships: SW NAHRO, NM NAHRO, Vocational Rehabilitation.	2007 - 2011
First Place Award, "Art of Healing" conference, National Artists for Mental Health.	1998
First Place Award, "Reflections" exhibit, Washington Behavioral Health Conference.	1998

Publications

The Monster's Daughter	"Refugio" - painting for book cover	2013
Coyote Tracks	"Bitter Medicine" - poetry	2010
Coyote Tracks	"A Love Letter to the Divine" - poetry	2010
Nuclear Resistance Calendar	"The Reclamation" - painting	2010
Santa Fe Corner	"Becoming Planted" - poetry	2009
Heartlink	"Submerging in the Task" - essay	2009
Nuclear Resistance Calendar	"Transparency" - painting	2009
Las Voces del Obrero Catolico	"Refugio" - painting	2009
Las Voces del Obrero Catolico	"Harbinger" - painting	2008
Columbia River Fellowship for Peace Calendar	"The Weight of the World" - painting	2005

References

Carol Parker, PhD, LPCC

Loretta Armer, Ph.D,

Phillip A. Lucero

PROFESSIONAL OBJECTIVE

Specializing in educational leadership, program development, experiential education and positive youth engagement.

EDUCATION

Master of Arts, Environmental Education - University of New Mexico, Albuquerque, NM **2004**
Bachelor of Arts, English - Colorado College, Colorado Springs, CO **2001**
High School Diploma - Santa Fe Preparatory School, Santa Fe, NM **1997**

PROFESSIONAL EXPERIENCE

Education Director - CAVU; Santa Fe, NM ***2020-2021***
As Education Director at CAVU, I am tasked to oversee and implement a cross-disciplinary STEAM program that challenges students to conceive of innovative climate change adaptation strategies. The program reaches 400 students annually and it engages with schools all around the southwest United States.

Chief Program Officer - Simon Charitable Foundation; Santa Fe, NM **2019-2020**
While at the Simon Charitable Foundation I was responsible for the oversight of the New Mexico Simon Scholars Program. This is a scholarship program where students receive intensive support via a tutoring program, workshops, retreats and college application support. As the Chief Program Officer, I oversaw all aspects of the program and supervised a small staff of four employees.

Director of Athletics & Activities - Desert Academy; Santa Fe, NM **2017 - 2019**
In this position, I was responsible for the development, supervision, guidance and direction of the varsity and middle school athletic programs at Desert Academy. In my role as Activities Director I managed the service learning program, retreats and special events, the outdoor program and all student clubs. I was also the truancy officer and the behavior specialist for the school.

Dean of Students **- Santa Fe Public Schools; Santa Fe, NM** **2015 - 2017**
As the Dean of Students at Nina Otero Community School (K-8) I was responsible for creating and maintaining a safe, healthy, and supportive environment that synthesizes the intellectual, physical and social and emotional development of students in a holistic way. I was responsible for serving as a point of information for students and responding to students' needs.

Program Coordinator**, Santa Fe Public Schools; Santa Fe, NM** **2007 - 2015**
As the Student Wellness Action Team "SWAT" program coordinator I created and managed a extensive network of youth advocacy teams in 13 different middle and high schools, most of which are Santa Fe Public Schools. I developed a close relationship with administrators, teachers, support staff and students during my 8 years in this

role. The SWAT program is a prevention based program that addresses issues of drug and alcohol use / abuse, DWI, suicide, bullying, depression and a range of issues identified by students as problematic in their schools. I supervised a close-knit staff of 15, many of whom have been working with me since we created the program in 2007.

***Lead Instructor*, OnaVelo; Calgary, AB - CANADA** **2008 - 2011**
Two Wheel View is a 501c3 organization that connects young people to the social, cultural and environmental landscapes of our world through international bicycle adventures. As the New Mexico representative and lead instructor, I planned and facilitated Two Wheel View excursions In Argentina and Norway for disenfranchised youth. www.twowheelview.org

***Instructor*, North Carolina Outward Bound School; Brevard, NC** **Summer 2003**
As an Outward Bound instructor for the only campus with a dedicated mountain bike excursion program, I organized and instructed multi-day, back-country bicycle excursions with adolescents. This profound experience jump-started my career developing experiential education programs for youth.

COMMITTEE PARTICIPATION

Santa Fe Fat Tire Society - Board Member	2019 - Present
Santa Fe Boys Council	2016 - 2018
Santa Fe Prevention Alliance	2008 - 2015
Santa Fe Tobacco Free Coalition	2009 - 2015

LEADERSHIP ATTRIBUTES

- Life long learner who takes on challenges with energy and creativity
- Patient and intuitive problem solver
- Persuasive and effective communicator
- Trained group facilitator and mediator
- Responsible, focused and accountable track record of leadership
- Uses a data driven approach to promote health and wellness initiatives
- Organized, reliable and always on time

PROFESSIONAL SKILLS

- Semi-proficient in basic Spanish (oral & written)
- Proficient in high & low ropes course facilitation, team building and experiential education
- Trained in the restorative justice theory as a means for conflict resolution
- Proficient with Mac and PC platforms and accompanying software (Mac: pages, numbers, keynote, final cut pro - PC: word, excel, powerpoint)
- Proficient in media production, still photography, videography, graphic design, social media integration.

TERENCE G. FOREBACK, PE

POSITION

City of Santa Fe Bicycle and Trails Advisory Committee (BTAC)

SUMMARY

My education and diversity of experience uniquely qualifies me to provide a positive contribution to BTAC. I am a graduate engineer and a registered Professional Engineer. My career has included roles as an environmental engineer in land restoration, surveying and road design, drainage and soil erosion control, and other areas pertinent to the development of public projects.

My 13 years of public service included:

I served as an Environmental Engineer with the New Mexico Mining and Minerals Division. My experience included regulatory affairs and permitting emphasizing mutual goals and win-win problem solving skills. I was permit lead for various mining operations including the Chevron Questa Mine where I was actively involved with NM State Agencies, EPA, and Chevron studies and meetings related to the reclamation, stability issues and site remediation. I was also permit lead for other mineral operations including uranium properties and extensively involved in financial assurance for mining operations.

In 2007, I was appointed by Governor Richardson and served as the New Mexico State Mine Inspector, managing the New Mexico Mine safety program for 9 years. This included management of grants, budgets, legislation, rules, and working with various levels of government including Governor's office, State agencies, legislative committees, and State Legislators.

QUALIFICATIONS FOR BTAC

B. S. degree in engineering and registered professional engineer.

40 years of government and private industry experience as an engineer.

20 years working with programs involving environmental regulations or oversight including hands-on experience in land reclamation supervising reclamation operations, design and engineering of projects and permitting and environmental affairs.

RECENT WORK HISTORY

July 2016 to present:

I have been involved in our local community since my retirement in 2016. I am a docent at the Santa Fe Botanical Garden, a tour guide at the New Mexico History Museum, and was a 3-year member of the Santa Fe Parks and Recreation Advisory Commission.

April 2007 to July 2016:

New Mexico State Mine Inspector, responsible for the safety of New Mexico's Miners. The SMI is a constitutional and statutory position of New Mexico state government to which I was appointed by Governor Richardson in April 2007 and reappointed by Governor Martinez in 2011 and 2015. Responsible for federal grant programs related to miner training, enforcement of state mining law and regulation and emergency management for mine related incidents in the state. During my tenure, New Mexico consistently had mining accident levels well below the national average. My efforts towards an accident-free workplace involved all stakeholders including miners, supervisors, organized labor, the mining industry, and state and federal mining regulators. In an era requiring budget restraint, the Bureau of Mine Safety was consistently at or under budget by working with other resources such as other state agencies, federal agencies and industry to accomplish our goals in a cost-effective manner.

July 2003 to April 2007:

Senior Environmental Engineer for the Mining and Minerals Division, State of New Mexico. Responsible for environmental engineering issues at mine sites including:

Regulatory issues and permit review lead for hard rock and industrial mineral operations including permit lead for the Phelps Dodge (FMI) Chino Copper Mine, Chevron Questa Mine other uranium and industrial minerals sites.

Review of all information received for financial assurance calculations.

Participated in multidisciplinary teams of scientists, engineers and attorneys engaged in permitting activities involving environmental issues.

Facilitated meetings with stakeholders to resolve conflicts involving regulatory issues.

Prior work history includes engineering and supervision in private industry for 26 years.