City of Santa Fe

AGENDA

REGULAR MEETING OF THE QUALITY OF LIFE COMMITTEE
JULY 21, 2021
5:00 PM
ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR QUALITY OF LIFE COMMITTEE 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 Quality of Life 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. The agenda and packet 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. Approval of July 7, 2021 Quality of Life Committee Meeting Minutes.
6. **ACTION ITEMS: CONSENT**
   a. Request for Approval of Amendment #1 to the Santa Fe Civic Housing Authority's Country Club Apartments Rehabilitation Project to extend the term of performance through June 30, 2022. Alexandra Ladd, Director of Office of Affordable Housing: agladd@santafenm.gov, 505-303-9868).
   COMMITTEE REVIEW: Finance Committee: 07/19/2021
   Quality of Life Committee: 07/21/2021
   Public Works and Utilities Committee: 07/26/2021
   Governing Body: 07/28/2021

b. Request for Approval of contract amendment No. 1 to the New Mexico Coalition to End Homelessness – Early Intervention Project contract to extend the term of performance through June 30, 2022 and increase the amount of compensation by $250,000.00 for a total contract amount of $430,000.00. (Alexandra Ladd, Director of Office of Affordable Housing: agladd@santafenm.gov, 505-303-9868). **COMMITTEE REVIEW:**
Finance Committee: 07/19/2021
Quality of Life Committee: 07/21/2021
Public Works and Utilities Committee: 07/26/2021
Governing Body: 07/28/2021

c. Request for Approval of Emergency Procurement of Consuelo's Place/NMCEH Midtown Shelter in the amount of $965,000 to cover 12 months of operations through June 30, 2022. (Alexandra Ladd, Director of Office Of Affordable Housing: agladdd@santafenm.gov, 505-303-9868).
COMMITTEE REVIEW:
Finance Committee: 07/19/2021
Quality of Life Committee: 07/21/2021
Public Works and Utilities Committee: 07/26/2021
Governing Body: 07/28/2021

d. Request for Approval of Fiscal Year 2022 Grant Contract in the total amount of $81,902 for the Foster Grandparent and Retired Senior Volunteer Programs; Corporation for National and Community Service. (Anya Alarid, Volunteer Program Manager: aalarid@santafenm.gov, 955-4744)

Committee Review:
Finance Committee: 07/19/2021
Quality of Life: 07/21/2021
Governing Body: 07/28/2021

e. CONSIDERATION OF RESOLUTION NO. 2021-____. (Councilwoman Villarreal)
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, 2021, Pursuant to Section 23.6.2(A) SFCC 1987. (Geralyn Cardenas, Assistant City Clerk: gfcardenas@santafenm.gov, 955-6519)

Committee Review:

Introduced: 07/14/21
Finance Committee: 07/19/21
Quality of Life Committee: 07/21/21
Governing Body: 07/28/21

f. CONSIDERATION OF RESOLUTION NO. 2021-__. (Councilor Lindell)
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, for the Years 2021-2024, Pursuant to Subsection 23-6.2(C) SFCC 1987. (Jesse Guillen, Legislative Liaison: jbguillen@santafenm.gov, 955-6518)

Committee Review:
Finance Committee: 07/19/21
Quality of Life Committee: 07/21/21
Governing Body: 07/28/21

g. CONSIDERATION OF BILL NO. 2021-__. (Councilor Romero-Wirth and Councilor Garcia)
An Ordinance Relating to the Campaign Code; Amending Section 9-2.3 SFCC 1987 to Amend the Definition of a "Political Committee" to Include a Threshold Amount for Reporting Contributions; Amending Section 9-2.6 to Increase the Aggregate Expenditure 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. (Marcos Martinez, Senior Assistant City Attorney: mdmartinez@santafenm.gov, 955-6502)

Committee Review:
Introduced: 06/30/21
Quality of Life Committee: 07/21/21
Governing Body (request to publish): 07/28/21
Finance Committee: 08/02/21
Governing Body (public hearing): 08/25/21

7. **PRESENTATIONS**

a. Cannabis Industry Update
   a. Drug Policy Alliance Study – (Kyra Ochoa, Community Health and Safety Department Director: krochoa@santafenm.gov, 505-955-6603; and Emily Kaltenbach, Drug Policy Alliance Member)
   b. City Permitting Issues – Noah Berke, Planning Manager: nlberke@santafenm.gov, 505-490-5930)
   c. Entrepreneurial Opportunities – Rich Brown, Community Development Director: rdbrown@santafenm.gov, 505-955-6625; and Santa Fe Innovates)

8. **MATTERS FROM STAFF**

9. **MATTERS FROM THE COMMITTEE**

10. **MATTERS FROM THE CHAIR**

11. **NEXT MEETING: Wednesday, August 4, 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

MINUTES

REGULAR MEETING OF THE QUALITY OF LIFE COMMITTEE
JULY 07, 2021
5:00 PM
VIRTUAL MEETING

1. CALL TO ORDER

Start Time: 5:00 PM

2. ROLL CALL

Members Present:

Councilor Jamie Cassutt
Councilor Michael Garcia
Councilor Chris Rivera
Councilor Renee Villarreal
Councilor Carol Romero-Wirth

Members Excused:

Others Attending:

Jennifer Faubion, Council Liaison
Kyra Ochoa, Community Services Department Director
Andrew Padilla, Chief of Police
Lee Logston, Attendee
Pauline Kamiyama, Attendee
Kristine Mihelcic, Attendee
Erin McSherry, Attendee

Rachel O'Connor and Sylvia Barela were also in attendance.

3. APPROVAL OF AGENDA

MOTION: Councilor Cassutt moved, seconded by Councilor Rivera, to approve the agenda as presented.

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

For: Councilor Cassutt, Councilor Garcia, Councilor Rivera, Councilor Villarreal, Councilor Romero-Wirth

Against: None

Abstain: None

4. **APPROVAL OF CONSENT AGENDA**

MOTION: Councilor Cassutt moved, seconded by Councilor Rivera, to approve the consent agenda as amended.

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

For: Councilor Cassutt, Councilor Garcia, Councilor Rivera, Councilor Villarreal, Councilor Romero-Wirth

Against: None

Abstain: None

Councilor Michael Garcia moved item 7a from the consent agenda to the discussion agenda.

5. **APPROVAL OF MINUTES**

a. Approval of the June 16, 2021 Quality of Life Committee Meeting Minutes.

MOTION: Councilor Villarreal moved, seconded by Councilor Cassutt, to approve the minutes as presented.

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

For: Councilor Cassutt, Councilor Garcia, Councilor Rivera, Councilor Villarreal, Councilor Romero-Wirth

Against: None

Abstain: None

6. **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

Councilor Michael Garcia moved this item from the consent agenda to the discussion agenda.

The Committee moves to enter into Executive Session (6:37 PM)

Moved: Councilor Villarreal

Second: Councilor Garcia

Roll Call:

Councilor Jamie Cassutt: yes

Councilor Michael Garcia: yes

Councilor Chris Rivera: yes

Councilor Renee Villarreal: yes

Chair Carol Romero-Wirth: yes

The Committee moved to return from Executive Session at 7:40 PM.

Moved: Councilor Rivera

Second: Councilor Cassutt

Councilor Jamie Cassutt: yes

Councilor Michael Garcia: yes

Councilor Chris Rivera: yes

Councilor Renee Villarreal: yes

Chair Carol Romero-Wirth: yes

MOTION: Councilor Rivera moved, seconded by Councilor Cassutt, to approve the contract as presented.

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

For: Councilor Cassutt, Councilor Rivera, Councilor Villarreal, Councilor Romero-Wirth

Against: None

Abstain: Councilor Garcia

Summary Minutes for Executive Session

Started - 6:37 p.m.

Councilor Romero – Wirth

Councilor Garcia

Councilor Cassutt

Councilor Rivera

Councilwoman Villarreal

Staff –

Attorney McSherry

Richard Brown

Sam Burnett

Pauline Kamiyama

Kristine Mihelcic

Proposed Awardee

Valerie Martinez, Artful Life

Ended at 7:40 p.m.

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

MOTION: Councilor Cassutt moved, seconded by Councilor Rivera, to approve the item as presented.

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

For: Councilor Cassutt, Councilor Garcia, Councilor Rivera, Councilor Villarreal, Councilor Romero-Wirth

Against: None

Abstain: None

c. 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

MOTION: Councilor Cassutt moved, seconded by Councilor Rivera, to approve the item as presented.

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

For: Councilor Cassutt, Councilor Garcia, Councilor Rivera, Councilor Villarreal, Councilor Romero-Wirth

Against: None

Abstain: None

d. 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

MOTION: Councilor Cassutt moved, seconded by Councilor Rivera, to approve the budget adjustment resolution (BAR) as presented.

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

For: Councilor Cassutt, Councilor Garcia, Councilor Rivera, Councilor Villarreal, Councilor Romero-Wirth

Against: None

Abstain: None

7. **PRESENTATION**

a. Behavioral Health at the City and County (Kyra Ochoa, Community Health and Safety Director: krochoa@santafenm.gov, 505-955-6603; and Rachel O'Connor, Health and Human Services Director, Santa Fe County)

b. Santa Fe Recovery: Midtown (Sylvia Barela, CEO of Santa Fe Recovery)

8. **MATTERS FROM STAFF**

9. **MATTERS FROM THE COMMITTEE**

10. **MATTERS FROM THE CHAIR**

11. **NEXT MEETING: Wednesday, July 21, 2021**

12. **ADJOURN**

End Time: 7:48 PM

_____ _____

Liaison Chair

CITY OF SANTA FE
AMENDMENT No. 1 TO
PROFESSIONAL SERVICES AGREEMENT

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated July 8, 2020 (the "Agreement"), between the City of Santa Fe (the "City") and Santa Fe Civic Housing Authority (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor, whichever occurs last.

RECITALS

A. Under the terms of the Agreement, Contractor shall utilize funds for rehabilitation and maintenance costs associated with County Club Apartments, which contains 62-2 and 3 bedroom units currently housing a majority of renters earning less than 30% AMI.

B. Pursuant to Article 13 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. TERM AND EFFECTIVE DATE.

Article 3 of the Agreement is hereby deleted. A new Article 3 of the Agreement is inserted to extend the term of the Agreement, so that Article 3 reads in its entirety as follows:

This Agreement shall become effective when signed 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.

2. AGREEMENT IN FULL FORCE.

Except as specifically provided in this Amendment, the Agreement remains and shall remain in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Professional Services Agreement as of the date signed by the City set forth below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

Date: _____

ATTEST:

_____
KRISTINE BUSTOS MIHELCIC
CITY CLERK

CONTRACTOR:
SANTA FE CIVIC HOUSING AUTHORITY

By: ed romero (Jun 18, 2021 15:07 MDT)
ED ROMERO
EXECUTIVE DIRECTOR

CITY ATTORNEY'S OFFICE:
Marcos Martinez
Marcos Martinez (Jun 18, 2021 13:46 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
MARY MCCOY
FINANCE DIRECTOR
2402750.510500
ORG/OBJ
AJH
AJH

Amendment - Country Club apts

Final Audit Report 2021-06-18

Created:	2021-06-18
By:	Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAbCgBza3iTqsosFnwfpJlfTuyvTLiFwrP

"Amendment - Country Club apts" History

Document created by Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
2021-06-18 - 8:59:31 PM GMT- IP address: 63.232.20.2

Document emailed to ed romero (edromero@sfcha.com) for signature
2021-06-18 - 8:59:48 PM GMT

Email viewed by ed romero (edromero@sfcha.com)
2021-06-18 - 9:06:36 PM GMT- IP address: 65.141.78.186

Document e-signed by ed romero (edromero@sfcha.com)
Signature Date: 2021-06-18 - 9:07:29 PM GMT - Time Source: server- IP address: 65.141.78.186

Agreement completed.
2021-06-18 - 9:07:29 PM GMT

ITEM # 20-0324

CITY OF SANTA FE
AFFORDABLE HOUSING TRUST FUND (AHTF)

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 **Santa Fe Civic Housing Authority** hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**
The Contractor shall perform the following work:

A. Use AHTF funds for rehabilitation and maintenance costs associated with Country Club Apartments, which contains 62 – 2 and 3 bedroom units currently housing a majority of renters earning less than 30% AMI. Eligible rehabilitation activities may include:

1. Asphalt parking and driveway overlays;
2. Installation of accessible handicap parking spaces, van and car;
3. Roofing about parking spaces;
4. Landscape improvements, including refurbishing basketball court;
5. Installation of smoke detectors in proximity to bedroom spaces;
6. Replacement of door handle hardware to be compliant with ADA.

B. Follow procurement processes consistent with the state procurement code, including 3 bids for proposed scope of work.

C. Report to the City on a quarterly basis the use of funds, including project status updates.

D. Provide accurate and thorough recordkeeping copies on file for annual monitoring that

specifically demonstrates compliance with proposed affordability criteria.

E. Performance Measures.

1. The Contractor represents that it possesses the personnel, experience and knowledge necessary to perform the services described under this Agreement.

2. The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

2. **Compensation.**

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed one hundred forty thousand dollars ($140,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax, shall not exceed ($140,000). 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.

3. **Term.**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** 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 state 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 State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico 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 State of New Mexico 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, and the State of New Mexico 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. **Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and

understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

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 executive orders of the Governor of the State of New Mexico, 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.** 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: Office of Affordable Housing
PO Box 909
Santa Fe, NM 87504-0909
rlcatanach@ci.santa-fenm.us

To the Contractor: Santa Fe Civic Housing Authority
664 Alta Vista St.
Santa Fe, NM 87505

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:_____

SANTA FE CIVIC HOUSING AUTHORITY:

ed romero

ED ROMERO
EXECUTIVE DIRECTOR

DATE:_____

CRS# 01-505902-00-2
Registration # 67971

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
GB 07/08/20

CITY ATTORNEY' S OFFICE:

Marcos Martinez

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510500
Business Unit/Line Item

Santa Fe Civic Housing Authority

Serving the community since 1961

MEMO

TO: **City of Santa Fe**
FROM: **David Martinez**
DATE: **June 18, 2021**
SUBJECT: **Country Club, AHTF Award 2020-2021, PO #22101111**

This affordable housing project, constructed in 1964 consists of 62 units. This entire site is in need of upgrades but the essential infrastructure repairs are the most glaring need at this time, particularly the sewer line system that will require replacing and rerouting. We plan on this award money going toward asphalt and landscape improvements but we want to make sure the underground work is finished first, thus the request for an extension on expending the award funds. We anticipate invoicing for our 2020-2021 AHTF funds in the next 4 months.

Please let me know if you have any questions.

Thank you for your consideration,

David Martinez

Dave Martinez, Deputy Director

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Santa Fe Civic Housing Authority

Procurement Title: 20/15/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 OAH Staff Name Roberta Catanach/Alexandra Ladd

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:

Roberta Catanach Contract Administrator 06/17/2021

Department Rep Printed Name (attesting that all information included) Title Date

Fran Duranway

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

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201905**

Contractor: **Santa Fe Civic Housing Authority**

Description: **Agreement delivers funds for rehabilitation and maintenance costs associated with Country Club Apartments, which contains 62 units currently housing a majority of renters earning less than 30% AMI**

Contract ☐ Agreement ☐ Lease / Rent ☐ Amendment ☉

Term Start Date: **07/01/2020** Term End Date: **06/30/2021**

☑ Approved by Council Date: **07/08/2020**

Contract / Lease: **Contract for $140,000**

Amendment # **1** to the Original Contract / Lease # **20-0324**

Increase/(Decrease) Amount $ _____

Extend Termination Date to: **06/30/2022**

☐ Approved by Council Date: _____

Amendment is for: **To extend term to 06/30/2022**

2. **HISTORY** of Contract, Amendments & Lease / Rent - **Please Elaborate** (option: attach spreadsheet if multiple amendments)
Original: $140,000 to expire 06/30/2021
Amendment: To Extend term to 06/30/2022

3. **Procurement History:** **RFP #201/15/P**

Jun 30, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: Award from RFP

4. **Funding Source:** **240** **Org / Object:** **2402750.510500**

Andy Hopkins
Andy Hopkins (Jun 30, 2021 17:37 MDT)

Jun 30, 2021

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

City of Santa Fe, New Mexico

memo

Date: July 2, 2021

To: Finance Committee – July 19, 2021
Quality of Life Committee – July 21, 2021
Public Works Committee – July 26, 2021
City Council – July 28, 2021

Via: Rich Brown, Community Development Director Richard Brown

From: Alexandra Ladd, Director, Office of Affordable Housing Alexandra Ladd
Alexandra Ladd (Jul 7, 2021 08:56 MDT)

Re. Amendment #1 to SFCHA – Country Club Apartments Rehabilitation

---

ACTION REQUESTED:
Approve amendment #1 to the Santa Fe Civic Housing Authority's (SFCHA) contract for Country Club Apartments rehabilitation project awarded through RFP# 20/15/P. The purpose of the amendment is to extend the term of performance through June 30, 2022 to allow extra time for project completion. The amount of compensation remains the same.

BACKGROUND
Affordable Housing Trust Funds (AHTF) are generated from development activity (developer fees, pre-inclusionary housing agreements), payoffs of City-held liens, and land sales from Tierra Contenta. When the funds reach a threshold balance, the City funds affordable housing projects and activities to benefit income-qualified grantees. Eligible housing activities are outlined in SFCC Chapter 26-3. Uses of funds are determined by the housing needs identified in the City's Five Year Strategic Housing Plan and regulated by the NM Mortgage Finance Authority for compliance with the NM Affordable Housing Act.

In April of 2021, the Governing Body approved allocating an additional amount of $1,800,000 into the AHTF to provide direct support for affordable housing within the current fiscal year. This amount was added to the AHTF allocation for 2021-22 ($1,200,000) for a total of $3,000,000.

ITEM and ISSUE
The attached amendment extends the contract term through June 30, 2022. This amendment does NOT increase compensation but provides additional time for the SFCHA to complete the proposed scope of work. Delays were attributable to supply chain and labor shortage issues, as well as other projects having priority due to pandemic conditions. The funds are anticipated to be fully expended within 6 months of this extension.

1-Council_Packet_Memo_AHTF_SFCHA

Final Audit Report 2021-07-06

Created:	2021-07-06
By:	Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAU5_6NIqu6qTAFIjuap87hHjobyEV40Lv

"1-Council_Packet_Memo_AHTF_SFCHA" History

Document created by Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
2021-07-06 - 7:35:42 PM GMT- IP address: 63.232.20.2

Document emailed to rich brown (rdbrown@santafenm.gov) for signature
2021-07-06 - 7:36:01 PM GMT

Email viewed by rich brown (rdbrown@santafenm.gov)
2021-07-06 - 9:01:07 PM GMT- IP address: 71.228.116.134

Document e-signed by rich brown (rdbrown@santafenm.gov)
Signature Date: 2021-07-06 - 9:01:23 PM GMT - Time Source: server- IP address: 71.228.116.134

Agreement completed.
2021-07-06 - 9:01:23 PM GMT

Adobe Sign

Memo - SF Civic Housing Authority

Final Audit Report 2021-07-07

Created:	2021-07-07
By:	Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAW1xXX5ocbcmu0TSAwKlwLI7_bVw2DuWa

"Memo - SF Civic Housing Authority" History

Document created by Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
2021-07-07 - 2:16:32 PM GMT- IP address: 63.232.20.2

Document emailed to Alexandra Ladd (agladd@santafenm.gov) for signature
2021-07-07 - 2:17:02 PM GMT

Email viewed by Alexandra Ladd (agladd@santafenm.gov)
2021-07-07 - 2:56:15 PM GMT- IP address: 63.232.20.2

Document e-signed by Alexandra Ladd (agladd@santafenm.gov)
Signature Date: 2021-07-07 - 2:56:35 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2021-07-07 - 2:56:35 PM GMT

Adobe Sign

COUNCLU-01 BSTIERWALT

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 7/2/2021

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	CONTACT NAME: Barbara Stierwalt	
Berger Briggs Insurance & Risk Solutions, Inc. An ISU Network Member 4333 Pan American Fwy NE, Suite A Albuquerque, NM 87107	PHONE (A/C, No, Ext): (505) 247-0444	FAX (A/C, No):
	E-MAIL ADDRESS: bstierwalt@bbirs.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Travelers Casualty Insurance Company of Americ	40282
INSURED Country Club Apartments LP Santa Fe Civic Housing Authority 664 Alta Vista St Santa Fe, NM 87505	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	
A	X COMMERCIAL GENERAL LIABILITY			680-4R86896A-20-22	11/1/2020	11/1/2021	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ Excluded
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY			680-4R86896A-20-22	11/1/2020	11/1/2021	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X 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						PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87504-0909

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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AGENCY CUSTOMER ID: COUNCLU-01 BSTIERWALT

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Berger Briggs Insurance & Risk Solutions, Inc. An ISU Network Member	Country Club Apartments LP Santa Fe Civic Housing Authority 664 Alta Vista St Santa Fe, NM 87505
POLICY NUMBER SEE PAGE 1	
CARRIER: SEE PAGE 1 / NAIC CODE: SEE P 1	EFFECTIVE DATE: SEE PAGE 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:
The policy includes an additional insured and/or waiver of subrogation endorsement (or provision) that provides additional insured and/or waiver of subrogation status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status. See forms attached.

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POLICY NUMBER: 680-4R86896A-20-42

COMMERCIAL GENERAL LIABILITY
ISSUE DATE: 10/19/2020

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED–DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of person or organization:

CITY OF SANTA FE

OFFICE OF AFFORDABLE HOUSING
500 MARKET STREET, SUITE 200
SANTA FE NM 87505

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability arising out of your acts or omissions.

Copyright, Insurance Services Office, Inc., 1984

CATANACH, ROBERTA L.

From: LUJAN, BARBARA J.
Sent: Wednesday, July 7, 2021 11:46 AM
To: CATANACH, ROBERTA L.
Cc: LOVATO, MELANIE Y.
Subject: RE: WC

Hi:
We are in the process of finalizing a RFP and have an extension for ninety days so it is ok to use the current one until the new one is sent.
Barbara
690-2854

From: CATANACH, ROBERTA L. <rlcatanach@santafenm.gov>
Sent: Wednesday, July 7, 2021 10:21 AM
To: LUJAN, BARBARA J. <bjlujan@santafenm.gov>
Subject: WC

Barbara,

You sent me this policy for SF Civic Housing Authority, but I just realized that it has expired. Can you please send me a current Certificate.

Thank you

Roberta Catanach
Office of Affordable Housing
500 Market Street, Ste 200
(505) 955-6421

From: LUJAN, BARBARA J. <bjlujan@santafenm.gov>
Sent: Wednesday, June 23, 2021 3:36 PM
To: CATANACH, ROBERTA L. <rlcatanach@santafenm.gov>
Subject: FW:

Hi,
Here you go.

Barbara
690-2854

From: WILLIAMS, BRIAN G. <bgwilliams@santafenm.gov>
Sent: Wednesday, June 23, 2021 3:17 PM
To: LUJAN, BARBARA J. <bjlujan@santafenm.gov>
Subject:

Brian Williams
Director
City of Santa Fe Emergency Management and Safety
bgwilliams@santafenm.gov
C: 505-469-1484

REQUEST FOR WAIVER OF INSURANCE

Date: 06/25/2021 **Division/department:** Office of Affordable Housing

Project manager: Alexandra Ladd **Phone:** 303-9868

Requested for: Waiver of Professional Liability coverage

☐ **General liability** ☐ **Auto liability** ☐ **Professional liability**

☐ **Workers compensation (Mandatory unless sole proprietor)** ☐ **Other insurance**

Scope of services: Provide rehabilitation services for a minimum of 20 owner-occupied homes for households with incomes below 80% AMI. Maximum assistance per household is $14,000

Why the request for waiver: This is a repair program, therefore they cannot purchase Professional Liability Coverage

Division evaluation of risk:

What is the term and annual dollar amount of the contract:	1 Year term - $90,000	
Is our standard contract being used:	☐ Yes	☐ No
Was the contractor asked if they carry insurance:	☐ Yes	☐ No
Is there construction/demolition:	☐ Yes	☐ No
Is there potential for bodily injury or property damage:	☐ Yes	☐ No
Are crowds or children likely to be involved:	☐ Yes	☐ No
Will the contractor be working on site in the City:	☐ Yes	☐ No
Is the contractor a professional (licensed, certified):	☐ Yes	☐ No
Will the City rely on information to make future decisions:	☐ Yes	☐ No
Could poor, non-performance or the product cause loss:	☐ Yes	☐ No

Office of Risk Management recommendation: ☐ **Yes** ☐ **No**

Melanie Lovato

☑ **Insurance Waiver Approved** ☐ **Insurance Waiver Not Approved**

_____ _____

Jarel LaPan Hill, City Manager **Date**

CITY OF SANTA FE
AMENDMENT No. 1 TO
PROFESSIONAL SERVICES AGREEMENT
ITEM #20-0372

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated July 29, 2020 (the "Agreement"), between the City of Santa Fe (the "City") and New Mexico Coalition to End Homelessness (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor, whichever occurs last.

RECITALS

A. Under the terms of the Agreement, Contractor shall utilize funds to implement the Homeless Early Intervention Project to provide financial assistance.

B. Pursuant to Article 13 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. SCOPE OF WORK

Article 1, Section B of this Agreement is hereby deleted. A new Article 1, Section B of the Agreement is inserted so that Article 1, Section B reads in its entirety as follows:

B. Increase staffing capacity to administer the financial assistance provided through this contract. Reimbursement for additional staff will be documented through payroll reports and timesheets. This staff will be responsible for the following:

1) Work with partner agencies (including but not limited to Life Link, St. Elizabeth Shelter, Youth Shelters and Family Services and the Santa Fe Interfaith Shelter) to

identify households and individuals in need of assistance, with particular focus on those currently living in temporary situations, such as hotels and the Midtown Shelter.

2) Determine housing instability or risk of homelessness and document household's eligibility for assistance;

3) Approve payment to cover rent, deposits, utilities, and arrears directly to the utility company, landlord or services provider.

4) Participate in the NM Coordinated Entry System (CES) and support the participation of partner agencies to complete an assessment for all persons experiencing homelessness or at risk of homelessness and to assess the impact of Covid-19 and other social determinants of health.

5) Participate in case conferencing regarding high priority clients so that the process moves beyond status updates to focus on action-oriented housing outcomes.

2. COMPENSATION

Article 2, Section A of the Agreement is hereby deleted. A new Article 2, Section A of this Agreement is inserted to increase the amount of compensation by a total of two hundred fifty thousand dollars ($250,000) so that Article 2, Section A reads in its entirety as follows:

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed four hundred thirty thousand dollars ($430,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax, shall not exceed ($430,000). This amount is a maximum and not a guarantee that the work assigned to be performed by 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.

3. TERM AND EFFECTIVE DATE.

Article 3 of the Agreement is hereby deleted. A new Article 3 of the Agreement is inserted to extend the term of the Agreement, so that Article 3 reads in its entirety as follows:

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. AGREEMENT IN FULL FORCE.

Except as specifically provided in this Amendment, the Agreement remains and shall remain in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Professional Services Agreement as of the date signed by the City set forth below.

CITY OF SANTA FE:

_____

ALAN WEBBER, MAYOR

Date: _____

ATTEST:

KRISTINE BUSTOS MIHELCIC
CITY CLERK

CONTRACTOR:
NEW MEXICO COALITION TO
END HOMELESSNESS

By: _____
HANK HUGHES
EXECUTIVE DIRECTOR

CITY ATTORNEY'S OFFICE:
Marcos Martinez
Marcos Martinez (Jun 8, 2021 14:18 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2400223.510500 - $200,000 – (AHTF)
1002750.510500 - $50,000 (GF)____
ORG/OBJ #

AJH
AJH

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201908**

Contractor: **New Mexico Coalition to End Homelessness (NMCEH)**

Description: **To deliver rental assistance to residents in Santa Fe who are experiencing housing instability or homelessness**

Contract ☐ Agreement ☐ Lease / Rent ☐ Amendment ☉

Term Start Date: **07/01/2020** Term End Date: **06/30/2021**

☐ Approved by Council Date: _____

Contract / Lease: **Emergency contract**

Amendment # **1** to the Original Contract / Lease # **20-0372**

Increase/(Decrease) Amount $ **250,000 ($200,000 from AHTF 2400223.510500 & $50,000 from GF 1002750.5105**

Extend Termination Date to: **06/30/2022**

☐ Approved by Council Date: _____

Amendment is for: **Increase compensation by $200,000 and to extend term to 06/30/2022**

2. **HISTORY** of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)

Original contract - $180,000
Amend #1 - Increasing compensation by $250,000 for a total of $430,000; extending term to 06/30/2022 (Funds split: $200,000 from AHTF 2400223.510500; $50,000 from GF 1002750.510500)

3. **Procurement History:** **General Fund and AHTF**

Fran Delaway (Jun 29, 2021 13:15 MDT) Jun 29, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: Amend and extend term for an existing contract.

4. **Funding Source:** _____ **Org / Object:** **2400223.510500; 1002750**

Andy Hopkins (Jun 29, 2021 12:00 MDT) Jun 29, 2021

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: New Mexico Coalition To End Homelessness

Procurement Title: 20/15/P (GF)

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 OAH Staff Name Roberta Catanach

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:

Roberta Catanach	Contract Administrator	06/02/2021
Department Rep Printed Name (attesting that all information included)	Title	Date
Fran Delaway (Jun 29, 2021 13:15 MDT)	Chief Procurement Officer	Jun 29, 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.

Council_Packet_Memo_AHTF_amendments

Final Audit Report 2021-06-23

Created:	2021-06-23
By:	Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAKC7xDgueC3j0t3qwMzkv9T8grDmVF8WL

"Council_Packet_Memo_AHTF_amendments" History

Document created by Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
2021-06-23 - 6:04:50 PM GMT- IP address: 63.232.20.2

Document emailed to Richard Brown (rdbrown@ci.santa-fe.nm.us) for signature
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Email viewed by Richard Brown (rdbrown@ci.santa-fe.nm.us)
2021-06-23 - 9:36:32 PM GMT- IP address: 71.228.116.134

Document e-signed by Richard Brown (rdbrown@ci.santa-fe.nm.us)
Signature Date: 2021-06-23 - 9:36:46 PM GMT - Time Source: server- IP address: 71.228.116.134

Agreement completed.
2021-06-23 - 9:36:46 PM GMT

Adobe Sign

Memo For Packet

Final Audit Report 2021-06-23

Created:	2021-06-23
By:	Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAZmJJGsm83VB7_CKLfc91ewH-olSnVHNH

"Memo For Packet" History

Document created by Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
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Document emailed to Alexandra ladd (agladd@santafenm.gov) for signature
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Document e-signed by Alexandra ladd (agladd@santafenm.gov)
Signature Date: 2021-06-23 - 9:46:00 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2021-06-23 - 9:46:00 PM GMT

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 6/2/2021

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 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	CONTACT NAME: CONRAD SCHOTT
ZIA INS AGENCY INC/CAPITOL INS SERVICES LLC 810 CALLE MEJIA SUITE 106 SANTA FE NM 87501	PHONE (A/C, No, Ext): 505.983.7329 FAX (A/C, No): 505.986.6116 E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: AMERICAN HALLMARK INSURANCE CO	
INSURER B: NEW MEXICO MUTUAL CASUALTY CO.	
INSURER C: GEMINI INSURANCE CO.	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED: NEW MEXICO COALITION TO END HOMELESSNESS
P O BOX 865
SANTA FE NM 87504-0865

COVERAGES **CERTIFICATE NUMBER:** 2021-01 **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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR	X		44PB428730-18	06/03/2021	06/03/2022	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
		X					MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
C	X PROFESSIONAL LIABILITY	X		VNPL07457	06/02/2021	06/02/2022	GENERAL AGGREGATE	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
							PROFESSIONAL LIAB	$ 1,000,000
A	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS	X		44PB428730-18	06/03/2021	06/03/2022	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
		X					BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $			44PB428730-18	06/03/20201	06/03/2022	EACH OCCURRENCE	$ 1,000,000
							AGGREGATE	$ 1,000,000
								$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		27309.119	10/01/2020	10/01/2021	X WC STATU-TORY LIMITS OTH-ER	
							E.L. EACH ACCIDENT	$ 100,000
							E.L. DISEASE - EA EMPLOYEE	$ 100,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

CITY OF SANTA FE
P O BOX 909
SANTA FE, NM 87504-0909

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

Conrad Schott by CJE

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CITY OF SANTA FE
AFFORDABLE HOUSING TRUST FUND (GENERAL FUND)

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 **New Mexico Coalition to End Homelessness** hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**
The Contractor shall perform the following work:

A. Implement the Homeless Early Intervention Project to provide financial assistance, which may be distributed over the course of several months in the form of rental assistance (includes rent payments, utilities, deposits and costs in arrears) to a minimum of three hundred sixty (360) households earning less than 60% AMI, or meet a definition of homelessness including those who are living in a shelter, living in a place not meant for human habitation or those at risk of homelessness because they will lose their current housing situation within 14 days.

B. Create partnership networks with services providers including Life Link, St. Elizabeth Shelter, Youth Shelters and Family Services and the Santa Fe Interfaith Shelter. Partner agencies will identify households and individuals in need of the assistance, conduct a needs assessment using the Unite Us platform, the impact of COVID-19, as well as documenting other social determinants of health. After receiving documentation of housing instability or risk of homelessness, NMCEH will review the requests for eligibility and if approved, issue checks to the appropriate party such as landlords and utility companies.

C. Report to the City on a quarterly basis the use of funds, including documentation of housing instability, AMI of assisted renter, address, house hold size and other demographic information as requested.

D. Provide accurate and thorough recordkeeping copies on file for annual monitoring to include documentation of income verification, certification of eligibility, receipts, and other supporting documentation for rental assistance provided.

E. Performance Measures.

1. The Contractor represents that it possesses the personnel, experience and knowledge necessary to perform the services described under this Agreement.

2. The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors

2. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed one hundred eighty thousand dollars ($180,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax, shall not exceed ($180,000). 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.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** 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 state 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 State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico 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 State of New Mexico 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, and the State of New Mexico 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. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

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 executive orders of the Governor of the State of New Mexico, 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.

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. 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: Office of Affordable Housing
PO Box 909
Santa Fe, NM 87504-0909
rlcatanach@ci.santa-fenm.us

To the Contractor: New Mexico Coalition to End Homelessness
440 Cerrillos Road
Santa Fe, NM 87501

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: 8/14/2020

CONTRACTOR:
NM COALITION TO END HOMELESSNESS

HANK HUGHES
EXECUTIVE DIRECTOR

DATE:

CRS# 02-937190-00-2
Registration # 225192

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK

GC
CC Mtg 07/29/2020

1002750.510500
Org # / Line Item

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 12, 2020)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCE:

MARY MCCOY
FINANCE DIRECTOR

City of Santa Fe

Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: NM COALITION TO END HOMELESS
DBA: NM COALITION TO END HOMELESS

Business Location: 440 CERRILLOS RD
SANTA FE, NM 87501

CRS Number: 02937190002

Owner: NM COALITION TO END HOMELESS

License Number: 225192

License Type: Business License - Renewable

Issued Date: April 12, 2021

Classification: Business Registration - Standard

Expiration Date: April 12, 2022

Fees Paid: $35.00

Description: NON-PROFIT

NM COALITION TO END HOMELESS
PO BOX 865
SANTA FE, NM 87504

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

City of Santa Fe, New Mexico

memo

Date: July 2, 2021

To: Finance Committee – July 19, 2021
Quality of Life Committee – July 21, 2021
Public Works Committee – July 26, 2021
City Council – July 28, 2021

Via: Rich Brown, Community Development Director Richard Brown

From: Alexandra Ladd, Director, Office of Affordable Housing Alexandra Ladd
Alexandra Ladd (Jul 7, 2021 11:28 MDT)

Re. Amendment #1 to NMCEH Contract for Homeless Early Intervention Project

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ACTION REQUESTED:
Approve amendment #1 to the New Mexico Coalition to End Homelessness (NMCEH) Contract for the Homeless Early Intervention Project awarded through RFP# 20/15/P. The purpose of the amendment is to extend the term of performance through June 30, 2022 and to add compensation from the Affordable Housing Trust Fund in the amount of $250,000 for a total contract amount of $430.000.

BACKGROUND
Affordable Housing Trust Funds (AHTF) are generated from development activity (developer fees, pre-inclusionary housing agreements), payoffs of City-held liens, and land sales from Tierra Contenta. When the funds reach a threshold balance, the City funds affordable housing projects and activities to benefit income-qualified grantees. Eligible housing activities are outlined in SFCC Chapter 26-3. Uses of funds are determined by the housing needs identified in the City's Five Year Strategic Housing Plan and regulated by the NM Mortgage Finance Authority for compliance with the NM Affordable Housing Act.

In April of 2021, the Governing Body approved allocating an additional amount of $1,800,000 into the AHTF to provide direct support for affordable housing within the current fiscal year. This amount was added to the AHTF allocation for 2021-22 ($1,200,000) for a total of $3,000,000.

ITEM and ISSUE
In order to ensure that funds are allocated quickly and efficiently, staff recommends adding funds to this existing contract and extending the term of performance through June 30, 2022. An additional rationale is that pandemic-caused housing issues continue to affect the ability residents to cover their housing costs. People experiencing homelessness who were housed in

area hotels to reduce population densities at shelters are not yet in permanent housing. The increase in funds will serve to "bridge" the gap for those exiting hotel stays or the Midtown Shelter, or currently on waiting lists for permanent housing situations. The flexibility of these funds, in comparison to HUD funds and other subsidy funds and the fact that they can be deployed without a waiting list makes them ideal for re-housing or keeping housed those who are otherwise at immediate risk of homelessness. An additional 100 – 200 households will be assisted through the extension of this contract.

Additionally, the City will compensate NMCEH for the operational burden of administering the funds in the amount of $50,000 using General Funds. The scope is amended to add the requirement of using the coordinated entry system to support the City's goal to end chronic homelessness as part of the Built for Zero initiative.

1-Council_Packet_Memo_AHTF_NMCEH_EarlyIntervention

Final Audit Report 2021-07-07

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By:	Roberta Catanach (rlcatanach@ci.santa-fe.nm.us)
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NMCEH - Rental Assistance (amendment)

Final Audit Report 2021-07-07

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CITY OF SANTA FE
AFFORDABLE HOUSING TRUST FUND (AHTF)
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 **New Mexico Coalition To End Homelessness** hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

WHEREAS, On March 23, 2020, Mayor Alan M Webber announced a proclamation of emergency as a direct effect of the emergence of the COVID-19 virus and the resulting global pandemic; and

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 of serious illness and loss of life; and

WHEREAS, the negative impacts on the social, economic and overall quality of life of the residents of Santa Fe requires the expansion of necessary housing services; and

WHEREAS, it is the City's intention to support the housing situations of those currently housed, those in need of safe shelter, and those in danger of losing their homes because of inability to pay their rent, mortgage, utilities or HOA dues.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

The Contractor shall perform the following work:

A. Contractor will work with City staff to establish a Governing Board for the Midtown Shelter that will review expenditures related to the Shelter operations, approve staffing

reports, analyze data, and guide decision making related to the Shelter. Members may be composed of City and County staff, the board and staff of the Contractor, and other services providers or advocates whose expertise and affiliations will support the Shelter's operations.

B. Contractor will recruit, interview and hire two (2) independent contractors to provide shelter management services and case management to the residents of the Midtown Shelter. Job descriptions are summarized as follows:

a. Shelter Manager: manages all aspects of direct services and operations to ensure that the Midtown Shelter offers unified programming with an immediate goal of sheltering individuals and families who do not have a safe place to stay or self-isolate during the COVID-19 pandemic and with a longer-term goal of moving individuals and families into permanent supported housing as quickly as possible.

b. Case Manager: provides case management and crisis intervention services to shelter guests including immediate needs related to shelter, medical services, food, clothing, hygiene, and referral to services to meet longer term needs (job skills training and placement, literacy and life skills, legal support and advocacy), using the Unite Us platform and other coordinated entry systems.

C. The Contractor will maintain all financial records relating to the Midtown Shelter, according to generally accepted accounting principles, and will establish and maintain a designated account, segregated on its books, in which all disbursements will be used in support of the Midtown Shelter, less a 10% administrative charge. All disbursements are subject to the Governing Board's approval and accompanied by documentation such as timesheets, accomplishment narratives, invoices and receipts.

D. Contractor will report to the City on a quarterly basis the use of funds, program

outcomes achieved, AMI% of assisted household, size of household, addresses of assisted homes, and other demographic information as required by the City's CDBG quarterly reporting form.

2. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation not to exceed nine hundred sixty five thousand dollars ($965,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($965,000). 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. The Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums paid under this Agreement.

C. Payment shall be made upon receipt and approval by the City of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed.

D. 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.

E. 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.

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 state 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 State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico 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 State of New Mexico 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, and the State of New Mexico 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. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or

understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

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 executive orders of the Governor of the State of New Mexico, 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. 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: Office of Affordable Housing
PO Box 909
Santa Fe, NM 87504-0909
rlcatanach@ci.santa-fenm.us

To the Contractor: NM Coalition To End Homelessness
440 Cerrillos Road
Santa Fe, NM 87501

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

NEW MEXICO COALITION TO END HOMELESSNESS

_____
HANK HUGHES
EXECUTIVE DIRECTOR

CRS# 02-937190-00-2
Registration # 225192

ATTEST:

_____
KRISTINE BUSTOS MIHELCIC
CITY CLERK

CITY ATORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jul 12, 2021 09:47 MDT)

_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED AS TO FINANCES:

_____
MARY MCCOY, FINANCE DIRECTOR

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CITY OF SANTA FE
EMERGENCY DETERMINATION FORM

The emergency procurement method (NMSA 1978, Section 13-1-127) may only be used when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions. The existence of the emergency condition creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

1. the functioning of government;
2. the preservation or protection of property; or
3. the health or safety of any person.

I. Name of Department: Office of Affordable Housing

Requestors Name: Alexandra Ladd

Telephone Number: X6346 (303-9868, remotely)

II. Name of Contractor: Homewise

Address of Contractor: 1301 Siler Road, Suite D, Santa Fe, NM 87507

Amount of prospective contract: $150,000

Term of prospective contract: expire June 30, 2022

III. Please thoroughly list the services (scope of work), construction or items of tangible personal property of the contract:

Contractor will provide assistance to income-certified homeowners who are unable to pay their mortgages or at risk of foreclosure as a direct result of the COVID-19 pandemic. Eligible costs include: mortgage payments, utilities, HOA payments, and mortgage/utility arrears. Contractor will also provide foreclosure prevention services such as financial counseling and refinancing resources. Households earning up to 120% of area median income (AMI) are eligible to receive assistance.

IV. Provide an explanation for the justification of the procurement including a description of the emergency condition(s) requiring use of emergency procurement and the practicable

competition utilized in compliance with NMSA 1978, Section 13-1-127.

At the onset of the public health emergency posed by COVID-19, layoffs and cutbacks in hours affected many low- and moderate-income Santa Feans employed in the services and tourism sector of the economy. In turn, many got behind on their contractual obligations to pay their mortgages and/or utility costs. While many government lenders including Freddie Mac, Fannie Mae, and the Federal Housing Administration (FHA), as well as national lenders and major banks provided forbearance on mortgage payments – an important provision to keep homeowners out of foreclosure – some homeowners now find themselves with several months' worth of mortgage payments.

Assisting with mortgage payments ensures that homeowners won't be faced with unsurmountable debt in the form of arrears. Supporting the financial viability of homeowners not only keeps homes out of foreclosure also maintains the economic stability and social fabric of neighborhoods.

V. Please describe what measures are being taken to minimize the duration and effect of this particular emergency procurement (for example: is the emergency only in place until a competitive process can be completed, etc.).

This emergency procurement is proposed to be in place through June 30, 2022, although it's expected that most funds will be expended within the next 3 – 4 months. Providing assistance to homeowners to support housing stability will continue to be a priority for the City's housing funds. Some homeowners are likely to need continued support beyond the time at which the pandemic is controlled as the economic ripple effects from the early shutdown continue to affect them.

VI. Describe what measures the Agency will take in the future to prevent/mitigate use of an emergency procurement under similar circumstances.

This emergency procurement is necessary because of a once in a lifetime situation and is not likely to be repeated.

Certified and Approved by:

Fran Dunaway

Fran Dunaway (Jul 14, 2021 09:18 MDT)

Date: Jul 14, 2021

Procurement Officer

City of Santa Fe Approval by:

Mary McCoy Finance Director - City of Santa Fe Chief Financial Officer	Date
Mayor Alan M. Webber or City Manager Jarel Lapan Hill	Date

City of Santa Fe, New Mexico

memo

Date: July 9, 2021

To: Finance Committee – July 19, 2021
Quality of Life Committee – July 21, 2021
Public Works Committee – July 26, 2021
City Council – July 28, 2021

Via: Rich Brown, Community Development Director Richard Brown

From: Alexandra Ladd, Director, Office of Affordable Housing Alexandra Ladd Alexandra Ladd (Jul 9, 2021 15:26 MDT)

: Re. NMCEH Contract for Consuelo's Place/Midtown Shelter – Emergency Procurement

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ACTION REQUESTED:
Approve the New Mexico Coalition to End Homelessness (NMCEH) Contract for Consuelo's Place/Midtown Shelter awarded through emergency procurement and funded from the Affordable Housing Trust Fund in the amount of $965,000.

BACKGROUND
Affordable Housing Trust Funds (AHTF) are generated from development activity (developer fees, pre-inclusionary housing agreements), payoffs of City-held liens, and land sales from Tierra Contenta. When the funds reach a threshold balance, the City funds affordable housing projects and activities to benefit income-qualified grantees. Eligible housing activities are outlined in SFCC Chapter 26-3. Uses of funds are determined by the housing needs identified in the City's Five Year Strategic Housing Plan and regulated by the NM Mortgage Finance Authority for compliance with the NM Affordable Housing Act.

In April of 2021, the Governing Body approved allocating an additional amount of $1,800,000 into the AHTF to provide direct support for affordable housing within the current fiscal year. This amount was added to the AHTF allocation for 2021-22 ($1,200,000) for a total of $3,000,000.

ITEM and ISSUE
The contract is necessary to ensure that the residents of the Midtown Shelter remain housed for the duration of pandemic conditions. People experiencing homelessness who were housed in area hotels to reduce population densities at shelters are not yet in permanent housing. And the Midtown Shelter continues to play an important role in the community to provide an alternate to congregate shelter. Until more permanent supportive housing opportunities are provided, the people housed at Midtown or in hotels are at risk of returning to homelessness or precarious housing situations.

The estimated cost of the shelter operations is summarized below. This amount represents 12-months of operations for the Shelter to support fully the transition of residents from Midtown to permanent housing solutions. Consuelo's Place, a newly formed nonprofit affiliate of the NMCEH that was set up specifically to run the shelter, manages these operations. The organization reports to a board of Directors, composed of organizations representing housing and services providers in the community. City staff attends all board meetings and serves in an advisory capacity. This extension also enables the continued development of the capacity of the nonprofit. The services provided by the nonprofit are robust and likely to add value at a different location(s) once the Shelter ceases operations at Midtown.

Description	**Expense**
Insurance	$ 37,000.00
Repairs & Maintenance	$ 252,500.00
Public Relations	$ 820.00
Security Services	$ 150,183.76
Telephone	$ 1,808.92
Office Supplies	$ 5,209.56
Payroll Expenses	$ 684.08
Salaries and Wages	$ 424,366.36
Payroll Taxes	$ 36,453.04
Employee Benefits	$ 33,108.80
Program Expense	$ 21,149.44
Total Expense	**$ 963,283.96**

Council_Packet_Memo_AHTF_NMCEH_Midtown_revised

Final Audit Report 2021-07-09

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Memo NMCEH - (Alex)

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Signature Date: 2021-07-09 - 9:47:40 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2021-07-09 - 9:47:40 PM GMT

Adobe Sign

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3202824

Contractor: **NMCEH - CONSUELO'S PLACE**

Description: **Provide foreclosure prevention funds for homeowners unable to pay their mortgage and utility costs in the amount of $965,000**

Contract ☐ Agreement ☑ Lease / Rent ☐ Amendment ☐

Term Start Date: **07/014/2021** Term End Date: **06/30/2022**

☐ 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)
Original contract: $965,000

3. **Procurement History:** **Emergency procurement**

Fran Dunaway (Jul 14, 2021 09:18 MDT) Jul 14, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: Operations to continue -emergency services for affordable housing.

4. **Funding Source:** _____ **Org / Object:** 2400223.510500

Andy Hopkins (Jul 13, 2021 15:28 MDT) Jul 13, 2021

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 6/2/2021

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 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	CONTACT NAME: CONRAD SCHOTT
ZIA INS AGENCY INC/CAPITOL INS SERVICES LLC 810 CALLE MEJIA SUITE 106 SANTA FE NM 87501	PHONE (A/C, No, Ext): 505.983.7329 FAX (A/C, No): 505.986.6116 E-MAIL ADDRESS:

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
NEW MEXICO COALITION TO END HOMELESSNESS P O BOX 865 SANTA FE NM 87504-0865	INSURER A: AMERICAN HALLMARK INSURANCE CO	
	INSURER B: NEW MEXICO MUTUAL CASUALTY CO.	
	INSURER C: GEMINI INSURANCE CO.	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 2021-01 **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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR	X		44PB428730-18	06/03/2021	06/03/2022	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
		X					MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
C	X PROFESSIONAL LIABILITY	X		VNPL07457	06/02/2021	06/02/2022	GENERAL AGGREGATE	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
							PROFESSIONAL LIAB	$ 1,000,000
A	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS	X		44PB428730-18	06/03/2021	06/03/2022	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
		X					BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $			44PB428730-18	06/03/20201	06/03/2022	EACH OCCURRENCE	$ 1,000,000
							AGGREGATE	$ 1,000,000
								$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		27309.119	10/01/2020	10/01/2021	X WC STATU-TORY LIMITS OTH-ER	
							E.L. EACH ACCIDENT	$ 100,000
							E.L. DISEASE - EA EMPLOYEE	$ 100,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

CITY OF SANTA FE
P O BOX 909
SANTA FE, NM 87504-0909

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

Conrad Schott by CJE

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CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: NMCEH - Consuelo's Place

Procurement Title: Emergency Procurement

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 OAH Staff Name Roberta Catanach

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:

Roberta Catanach	Contract Administrator	07/09/2021
Department Rep Printed Name (attesting that all information included)	Title	Date
Fran Dramaway (Jul 14, 2021 09:18 MDT)	Chief Procurement Officer	Jul 14, 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

Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: NM COALITION TO END HOMELESS
DBA: NM COALITION TO END HOMELESS

Business Location: 440 CERRILLOS RD
SANTA FE, NM 87501

CRS Number: 02937190002

Owner: NM COALITION TO END HOMELESS

License Number: 225192

License Type: Business License - Renewable

Issued Date: April 12, 2021

Classification: Business Registration - Standard

Expiration Date: April 12, 2022

Fees Paid: $35.00

Description: NON-PROFIT

NM COALITION TO END HOMELESS
PO BOX 865
SANTA FE, NM 87504

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

City of Santa Fe, New Mexico
Memorandum

DATE: June 29, 2021

TO: Governing Body
Quality of Life Committee
Finance Committee

VIA: Kyra Ochoa, Community Health and Safety Director Kyra Ochoa
Gino Rinaldi, Senior Services Division Director

FROM: Anya Alarid, Volunteer Program Manager

ITEM AND ISSUE:
Request for the Approval of Fiscal Year 2022 Grant Contract in the Total Amount of $ 81,902 for the Foster Grandparent and Retired Senior Companion Volunteer Programs; Corporation for National and Community Service; Anya Alarid, Volunteer Program Manager aalarid@santafenm.gov 505-955-4744

BACKGROUND AND SUMMARY:

The Senior Services Department is requesting the approval of the Federal Grant Agreement with the Corporation for National and Community Service for the Senior Volunteer Programs. The Grant Award is for the Foster Grandparent and Retired Senior Companion Volunteer Programs. The attached Notice of Grant Award reflects the Fiscal Year 2022 awarded appropriations for the Volunteer Programs starting July 1, 2021. The allocations are as follows; Foster Grandparent Program $31,902, Retired Senior Volunteer Program $50,000.

Our Foster Grandparent Program provides opportunities for our senior volunteers to assist children (with special or exceptional needs) in classrooms or Head Starts. The RSVP Program recruits and provides meaningful volunteer opportunities for senior volunteers to help others by sharing their experience, knowledge, and efforts. RSVP volunteers work in food distribution sites, soup kitchens, nursing homes, hospitals, libraries, senior centers, shelters, etc.

CONTRACT NUMBER:
The FY20 Munis contract number is 3202793.

FUNDING SOURCE:

The funding source is:
Fund Name/Number: Senior Citizens Grant/Fund 241
Munis Org Name/Number: Senior Volunteer Programs/2410116

ACTION REQUESTED:
Department Name respectfully requests your review and approval.

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3202793**

Contractor: **Corporation for National and Community Service**

Description: **Administer the Senior Volunteer Programs- Foster Grandparent Program, Senior Companion, and the Retired Senior Volunteer Program.**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **07/01/2021** Term End Date: **06/30/22**

☐ 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)

3. **Procurement History:** _____

Fran Dunaway (Jul 12, 2021 10:11 MDT) Jul 12, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: Grant funds for services

4. **Funding Source: US Dept. of Health and Human Services** **Org / Object: 2410116/490510**

Andy Hopkins (Jul 7, 2021 14:57 MDT) Jul 7, 2021

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: Anya Alarid Phone # **505-955-4744**

Email: **aalarid@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

Notice of Grant Award

Corporation for National and Community Service
250 E Street SW, Suite 300
Washington, DC 20525-0001
(202) 606-5000

Retired and Senior Volunteer Program

Grantee

City of Santa Fe
1121 Alto Street PO Box 909 Santa Fe NM 87504-0909

EIN: 856000168
UEI:
DUNS: 069420818

Award Information

Agreement No.:	**20SRWNM003**	Performance Period:	**04/01/2020 - 03/31/2023**
Amendment No.:	**1**	Budget Period:	**04/01/2021 - 03/31/2022**
CFDA No.:	**94.002**	Grant Year:	**2**

Award Description

This award funds the approved 2021-22 RSVP program. Your 2021-22 statutory match is waived and your budgetary match is 61.2%.

Purpose

The purpose of this award is to assist the grantee in carrying out a national service program as authorized by the Domestic and Volunteer Service Act of 1973, as amended (42 U.S.C. Chapter 22).

Funding Information

Year 2	Previously Awarded This Year	This Award/ Amendment	Total Current Year
Total Obligated by CNCS	$0	$50,000	$50,000
Grantee's Unobligated Balance (Carryover)	$0	$0	$0
Total Available	$0	$50,000	$50,000

Cumulative Funding for Project Period

Total Awarded in Previous Amendments	$47,500
Total CNCS Funds Awarded to Date	**$97,500**

Funding Source and Amount

2021--OPE1-P74-OPO-26000-4101	$50,000.00

Special Conditions

1) Per Office of Audit and Debt Resolution's direction, Grantee is expected within 90 days of award to provide Portfolio Manager documentation that City of Santa Fe is addressing/resolved FY 2019 Audit findings with the appropriate agencies:
Audit Finding(s):
2019-001: Internal Controls over Financial Close and Reporting (Material Weakness in Internal Control over Financial Reporting)
2019-003: Billing/Recognition of Federal Revenue (Material Weakness in Internal Control over Financial Reporting)
2019- 007: Errors in Preparing the Schedule of Expenditures of Federal Awards (Significant Deficiency in Internal Control over Financial Reporting)
*AmeriCorps Senior programs were listed in this finding-provide documentation to prove progress and/or resolution

2) Closeout for # 17SFWNM013 is past due, within 90 days of award grantee shall reconcile # 17SFWNM013 funds and work with PM to complete closeout. Funds are subject to manual hold if the closeout actions are not taken.

Notice of Grant Award

250 E Street SW, Suite 300
Washington, DC 20525-0001
(202) 606-5000

Retired and Senior Volunteer Program

Grantee

City of Santa Fe
1121 Alto Street PO Box 909 Santa Fe NM 87504-0909

EIN: 856000168
UEI:
DUNS: 069420818

Terms of Acceptance: By accepting funds under this grant, recipient agrees to comply with General Terms and Conditions found at https://egrants.cns.gov/termsandconditions/2021GeneralTandC50820201202.pdf and the Program Terms and Conditions found at https://egrants.cns.gov/termsandconditions/2021RSVP508TC20210301.pdf . Recipient also agrees to comply with assurances and certifications made in the grant application, and applicable federal statutes, regulations and guidelines. Recipient agrees to administer the grant in accordance with the approved grant application, budgets, supporting documents, and all other representations made in support of the approved grant application.

Corporation for National and Community Service:

Stacy L Bishop 03/31/2021

Signature Award Date

Stacy Bishop
Senior Grants Officer

Daisy Gallardo, 202-815-4248
Grants Officer

Daisy Gallardo, 202-815-4248
Program Officer

City of Santa Fe
Legal Applicant

Kristin W. Slater-Huff
Project Director

Eugene Rinaldi
Certifying Official/Executive Officer

Notice of Grant Award

Corporation for National and Community Service
250 E Street SW, Suite 300
Washington, DC 20525-0001
(202) 606-5000

Foster Grandparent Program

Grantee

City of Santa Fe
1121 Alto Street PO Box 909 Santa Fe NM 87504-0909

EIN: 856000168
UEI:
DUNS: 069420818

Award Information

Agreement No.:	**20SFWNM006**	Performance Period:	**07/01/2020 - 06/30/2023**
Amendment No.:	**2**	Budget Period:	**07/01/2021 - 06/30/2022**
CFDA No.:	**94.011**	Grant Year:	**2**

Award Description

This award funds the approved 2021-22 FGP program. Your 2021-22 statutory match is waived and your budgetary match is 88%.

Purpose

The purpose of this award is to assist the grantee in carrying out a national service program as authorized by the Domestic and Volunteer Service Act of 1973, as amended (42 U.S.C. Chapter 22).

Funding Information

Year 2	Previously Awarded This Year	This Award/ Amendment	Total Current Year
Total Obligated by CNCS	$0	$31,902	$31,902
Grantee's Unobligated Balance (Carryover)	$0	$0	$0
Total Available	$0	$31,902	$31,902

Cumulative Funding for Project Period

Total Awarded in Previous Amendments	$31,902
Total CNCS Funds Awarded to Date	**$63,804**

Funding Source and Amount

2021--OPE1-P71-OPO-26000-4101	$31,902.00

Special Conditions

Per OMB memo M-20-26 your single audit for the fiscal year ending June 30, 2020 due on March 30, 2021 must be submitted to the FAC by June 30, 2021. Failure to do so by this date may result in your funds being placed on manual hold.

Terms of Acceptance: By accepting funds under this grant, recipient agrees to comply with General Terms and Conditions found at https://egrants.cns.gov/termsandconditions/2021GeneralTandC50820201202.pdf and the Program Terms and Conditions found at https://egrants.cns.gov/termsandconditions/2021FGP-SCPProgramSpecific508TC20210317.pdf. Recipient also agrees to comply with assurances and certifications made in the grant application, and applicable federal statutes, regulations and guidelines. Recipient agrees to administer the grant in accordance with the approved grant application, budgets, supporting documents, and all other representations made in support of the approved grant application.

Notice of Grant Award

250 E Street SW, Suite 300
Washington, DC 20525-0001
(202) 606-5000

Foster Grandparent Program

Grantee

City of Santa Fe
1121 Alto Street PO Box 909 Santa Fe NM 87504-0909

EIN: 856000168
UEI:
DUNS: 069420818

Corporation for National and Community Service:

Stacy L Bishop 06/28/2021

Signature Award Date

Stacy Bishop
Senior Grants Officer

Daisy Gallardo, 202-815-4248
Grants Officer

Daisy Gallardo, 202-815-4248
Program Officer

City of Santa Fe
Legal Applicant

Anya Alarid
Project Director

Eugene Rinaldi
Certifying Official/Executive Officer

FY 2021 GENERAL GRANT AND COOPERATIVE AGREEMENT TERMS AND CONDITIONS

By accepting funds under this award from AmeriCorps (AmeriCorps is the operating name for the Corporation for National and Community Service), the recipient agrees to comply with, and include in all awards and subawards, these General Terms and Conditions, the program-specific terms and conditions, all applicable Federal statutes, regulations and guidelines, and any amendments thereto. The recipient agrees to operate the funded program in accordance with the approved application and budget, supporting documents, and other representations made in support of the approved application. The term recipient is used to connote either recipient or subrecipient, as appropriate, throughout these General Terms and Conditions.

Due to COVID-19, AmeriCorps has provided guidance regarding on the applicability, implementation, and enforcement of certain of these terms and conditions. Please refer to the COVID-19 FAQs.

TABLE OF CONTENTS

I.	Changes from the 2020 General Terms and Conditions	2
II.	Governing Authorities	2
II.A.	Legislative and Regulatory Authority	2
II.B.	Other Applicable Terms and Conditions	3
II.C.	Order of Precedence	3
III.	General Terms and Conditions	3
III.A.	Responsibilities Under Award Administration Legislative and Regulatory Authority	3
III.B.	Financial Management Standards	4
III.C.	Changes in Budget or Key Personnel	5
III.D.	Bankruptcy	5
III.E.	Prohibited Program Activities	5
III.F.	National Service Criminal History Check Requirements	6
III.G.	The Office of Inspector General	6
III.H.	Recognition of AmeriCorps Support	7
III.I.	Reporting of Fraud, Waste, and Abuse	8
III.J.	Whistleblower Protection	9
III.K.	Liability and Safety Issues	10
III.L.	Award Monitoring	10

III.M.	Non-Discrimination Public Notice and Records Compliance	10
III.N.	Identification of Funding	12
III.O.	Award Products	12
III.P.	Suspension or Termination of Award	13
III.Q.	Grantee Procurement	13
III.R.	Trafficking in Persons	13
III.S.	System of Award Management (SAM) and Universal Identifier Requirements (Required Provision Under 2 CFR § 25.220)	15
III.T.	Transparency Act Requirements (For Grants and Cooperative Agreements of $30,000 or more)	16
III.U.	Conflict of Interest	19
III.V.	Award Term and Condition for Recipient Integrity and Performance Matters (Required Provision under 2 CFR § 200.210(b)(iii) for Grants and Cooperative Agreements of $500,000 or more)	19
III.W.	Breaches of Personally Identifiable Information (PII)	21
IV.	Attachment	23

I. CHANGES FROM THE 2020 GENERAL TERMS AND CONDITIONS

- Added COVID-19 guidance reference.
- Replaced all references to CNCS with AmeriCorps.
- Removed all references to AmeriCorps Program and Grants Officers.
- Section III.H – Updated the requirements for acknowledging support.
- Section III.P. - Added information about termination of grants under 2 CFR 200.340.
- Section III.T. - Changed the Transparency Act Requirements threshold from $25,000 to $30,000.
- Section IV. – Replaced the attachment with a currently signed version and new AmeriCorps letterhead.

II. GOVERNING AUTHORITIES

A. LEGISLATIVE AND REGULATORY AUTHORITY

This award is authorized by and subject to The National and Community Service Act of 1990, as amended, (42 U.S.C. 12501 *et seq.*) (NCSA) and/or the Domestic Volunteer Service Act of 1973, as amended, (42 U.S.C. 4950 *et seq.*) (DVSA), the Federal Grant and Cooperative Agreement Act (FGCAA), 31 U.S.C. §§6301-6308, and AmeriCorps' implementing regulations in 45 CFR Chapter XII and/or XXV. Recipients must comply with the requirements of the NCSA and/or DVSA and AmeriCorps' implementing regulations, as applicable.

B. OTHER APPLICABLE TERMS AND CONDITIONS

This award is subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at 2 CFR Part 200 and the agency's implementing regulation at 2 CFR Part 2205 (hereinafter, the Uniform Guidance). Award recipients must read, understand, and implement these federal regulations. 2 CFR Part 200 was amended on August 2020. Please refer to Section III.O below.

The recipient must comply with all other applicable statutes, executive orders, regulations, and policies governing the award, including, but not limited to, those included in 2 CFR Chapter I, as well as those cited in these General Terms and Conditions and Program Specific Terms and Conditions, and the Assurances and Certifications. Some of these requirements are discussed in these General Terms and Conditions to provide emphasis or additional explanations to recipients. Other provisions are included in these AmeriCorps' General Terms and Conditions because they are required by specific laws or regulations.

In addition to the applicable statutes and regulations referred to above, the recipient must comply with and perform its award consistent with the requirements stated in:

1. The Notice of Grant Award and Signature Page;
2. These General Terms and Conditions;
3. The Program Specific Terms and Conditions;
4. The Notice of Funding Availability;
5. The recipient's approved application (including the final approved budget, attachments, and pre-award negotiations); and
6. Grant Certification and Assurances.

C. ORDER OF PRECEDENCE

Any inconsistency in the authorities governing the Award shall be resolved by giving precedence in the following order: (a) applicable Federal statutes, (b) applicable Federal regulations, (c) Notice of Grant Award and Signature Page; (d) AmeriCorps Program Specific Terms and Conditions, (e) AmeriCorps General Terms and Conditions, (f) the Notice of Funding Opportunity, and (g) the approved Award Application including all assurances, certifications, attachments, and pre-award negotiations.

III. GENERAL TERMS AND CONDITIONS

A. RESPONSIBILITIES UNDER AWARD ADMINISTRATION

1. **Accountability of the Recipient.** The recipient has full fiscal and programmatic responsibility for managing all aspects of the award and award-supported activities, subject to the oversight of AmeriCorps. The recipient is accountable to AmeriCorps for its operation of the program and the use of AmeriCorps award funds. The recipient must expend award funds in a manner consistent with the cost principles in 2 CFR and in a reasonable manner, and it must record accurately the service activities and outcomes achieved under the award. Although recipients

are encouraged to seek the advice and opinion of AmeriCorps on special problems that may arise, such advice does not diminish the recipient's responsibility for making sound judgments and does not shift the responsibility for operating decisions to AmeriCorps.

2. **Subawards.** If authorized by law and permitted by AmeriCorps, a recipient may make subawards in accordance with the requirements set forth in the Uniform Guidance. The recipient must have and implement a plan for oversight and monitoring that complies with the requirements applicable to pass through entities identified at 2 CFR § 200.331 to ensure that each subrecipient has agreed to comply, and is complying, with award requirements.

   A recipient of a Federal award that is a pass-through entity has certain obligations to its subrecipients. Those requirements are located at 2 CFR § 200.331, §200.207, § 200.338, and 2 CFR Part 200 Subpart F.

3. **Notice to AmeriCorps.** The recipient will notify the appropriate AmeriCorps Portfolio Manager immediately of any developments or delays that have a significant impact on funded activities, any significant problems relating to the administrative or financial aspects of the award, or any suspected misconduct or malfeasance related to the award or recipient. The recipient will inform the AmeriCorps Portfolio Manager about the corrective action taken or contemplated by the recipient and any assistance needed to resolve the situation. Recipients should also ensure that they comply with the mandatory reporting requirements for suspected criminal activity or fraud, waste or abuse as specified in section III. H.

B. FINANCIAL MANAGEMENT STANDARDS

1. **General.** The recipient must maintain financial management systems that comply with 2 CFR § 200.302(b). The recipient's financial management systems must be capable of distinguishing expenditures attributable to this award from expenditures not attributable to this award. The systems must be able to identify costs by program year and by budget category, and to differentiate between direct and indirect costs. For all recipient's financial management requirements and responsibilities, refer to Subparts D and E of 2 CFR Part 200.

2. **Allowability of Costs.** To be allowable under an award, costs must meet the criteria of 2 CFR § 200.403, which provides that costs must be necessary and reasonable for the performance of the award, must conform to limitations in the award or 2 CFR Part 200 as to types or amounts of cost items, must be consistent with policies and procedures that apply uniformly to both Federally financed and other activities of the recipient, must be adequately documented, and must not be included as a cost or used to meet cost share or matching requirements of any other Federally financed program. Furthermore, the costs must be accorded consistent treatment in like circumstances as either direct or indirect costs in order to avoid the double-charging of Federal awards (see 2 CFR § 200.403(d) and § 200.412).

3. **Cost Reporting.** Recipients will be reporting their Federal cash disbursements quarterly through the Payment Management System (PMS) at the Department of Health and Human Services and their Federal share of grant program expenditures (including indirect costs)

semi- annually through AmeriCorps' eGrants system. Recipient's financial management systems must be able to routinely produce reports which support and reconcile to the amounts reported to PMS and eGrants. Recipients must also ensure that the financial management systems of any subrecipients can routinely produce the same reports. *As part of its ongoing fiscal oversight of recipients, AmeriCorps will be requesting randomly selected recipients to provide reports supporting their Federal cash disbursements reported to PMS (including supporting information for cash disbursements made by subrecipients). AmeriCorps expects recipients' and subrecipients' financial management systems to be able to produce those supporting reports on a routine basis.*

4. **Audits.** Recipient organizations that expend $750,000 or more in total Federal awards in a fiscal year shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act, as amended, 31 U.S.C. 7501, et seq., and 2 CFR Part 200, Subpart F. If the recipient expends Federal awards under only one Federal program, it may elect to have a program specific audit, if it is otherwise eligible. A recipient that does not expend $750,000 in Federal awards is exempt from the audit requirements for that year. However, it must continue to conduct financial management reviews of its subrecipients, and its records and its subrecipients' records must be available for review and audit in accordance with 2 CFR §§ 200.333-200.337 and §200.331(a)(5). Additionally, a recipient acting as a pass-through entity must issue management decisions for audit findings pertaining to the Federal award provided to the subrecipient as required by 2 CFR § 200.521 and ensure follow-up on audit findings in a timely manner to ensure that the subrecipient corrects any deficiencies identified in the audit.

C. CHANGES IN BUDGET OR KEY PERSONNEL

All budget and programmatic changes must comply with 2 CFR § 200.308 – Revision of budget and program plans. 2 CFR § 200.407 Prior written approval (prior approval) – provides an exhaustive list of those other items requiring AmeriCorps' advance approval.

D. BANKRUPTCY

The recipient must notify AmeriCorps if, during the term of its award, the recipient or one of its subrecipients becomes insolvent or is unable to pay its debts as they mature, or files a voluntary petition in bankruptcy or is the subject of an involuntary petition that is neither stayed nor dismissed within 60 days after the petition is filed.

E. PROHIBITED PROGRAM ACTIVITIES

The recipient must comply with, and require all subrecipients to comply with, the prohibitions on use of AmeriCorps funds applicable to their program as identified in sections 132A and 174 of the NCSA (42 U.S.C. §§ 12584a and 12634) and section 403 of the DVSA (42 U.S.C. § 5043), and provisions by Congress in annual appropriations acts. More specific guidance on these

prohibitions will be provided in AmeriCorps' Program Specific Terms and Conditions and in other guidance.

F. NATIONAL SERVICE CRIMINAL HISTORY CHECK REQUIREMENTS

The National Service Criminal History Check (NSCHC) is a screening procedure established by law to protect the beneficiaries of national service. *See* 45 CFR §§ 2540.200-2540.207 and http://www.nationalservice.gov/resources/criminal-history-check for complete information and FAQs. The law requires recipients to conduct and document NSCHCs on any person (including award-funded staff, national service participant, or volunteer) receiving a salary, living allowance, stipend or education award through a program receiving AmeriCorps funds. An individual is ineligible to serve in a position that receives such AmeriCorps funding if the individual is registered, or required to be registered, as a sex offender or has been convicted of murder. The cost of conducting NSCHCs is an allowable expense under the award.

Unless AmeriCorps has provided a recipient with a written exemption or written approval of an alternative search procedure, recipients must perform the following checks:
All award-funded staff, national service participants, and volunteers must undergo NSCHCs that include:

1. A nationwide name-based search of the National Sex Offender Public Website (NSOPW); and
2. Either:
   a. A name- or fingerprint-based search of the statewide criminal history registry in the person's state of residence and in the state where the person will serve/work; or
   b. A fingerprint-based FBI criminal history check.

Special Rule for Persons Serving Vulnerable Populations. Award-funded staff, national service participants, and volunteers with recurring access to vulnerable populations (i.e., children age 17 or younger, individuals age 60 or older, or individuals with disabilities) must undergo NSCHCs that include:

1. A nationwide name-based check of the NSOPW; and 2.
Both:
   a. A name- or fingerprint-based search of the statewide criminal history registry in the person's state of residence and in the state where the person will serve/work; and
   b. A fingerprint-based FBI criminal history check.

You must retain adequate documentation that you completed the required NSCHC. Inability to demonstrate that you conducted a required criminal history check component, to include the NSOPW, as specified in the regulations, may result in sanctions which may include disallowance of costs.

G. THE OFFICE OF INSPECTOR GENERAL

AmeriCorps' Office of Inspector General (OIG) conducts and supervises independent audits, evaluations, and investigations of AmeriCorps' programs and operations. Based on the results of

these audits, reviews, and investigations, the OIG recommends disallowing costs and also recommends amending or adding policies to promote economy and efficiency and to prevent and detect fraud, waste, and abuse in AmeriCorps' programs and operations.

The OIG conducts and supervises audits of AmeriCorps recipients, as well as legally required audits and reviews. The legally required audits include evaluating AmeriCorps' compliance with the Improper Payments Elimination and Recovery Act (IPERIA) which may result in grantees being requested to produce responsive documentation. The OIG uses a risk-based approach, along with input received from AmeriCorps management, to select recipients and awards for audit. The OIG hires independent audit firms to conduct some of its audits. The OIG audit staff is available to discuss any audit and can be reached at (202) 606-9390.

Recipients must cooperate fully with AmeriCorps requests for documentation and OIG inquiries by timely disclosing complete and accurate information pertaining to matters under investigation, audit or review, and by not concealing information or obstructing audits, inspections, investigations, or other official inquiries.

H. RECOGNITION OF AMERICORPS SUPPORT

1. **General Statement**. Recipients and subrecipients of federal agency AmeriCorps assistance or resources shall identify their programs, projects or initiatives as AmeriCorps or AmeriCorps Seniors programs or projects accordingly. All agreements with subrecipients, operating sites, or service locations, related to AmeriCorps programs and initiatives must explicitly state that the program is an AmeriCorps or AmeriCorps Seniors program.

   Similarly, recipients and subrecipients shall identify all national service members or volunteers serving at their programs, projects or initiatives as either AmeriCorps members, AmeriCorps Seniors volunteers, Day of Service volunteers or where appropriate for Volunteer Generation Fund simply "volunteers."

2. **Visual Representations and Prominent Display**. Recipients shall identify their programs, projects, or initiatives, and their members or volunteers, through the use of visual representations, including: logos; insignias; written acknowledgements, publications and other written materials; websites and social media platforms; and service gear such as clothing. All visual representations must follow current AmeriCorps branding guidelines, which include proper logo use and cobranding requirements. To provide recipients technical assistance in ensuring compliance with proper logo use and cobranding requirements, AmeriCorps provides brand guidelines, to which recipients and subrecipients should refer and follow. The brand guidelines are available at www.americorps.gov/brand-resources.

   All recipient and subrecipient websites and social media communications shall clearly state, as appropriate, that they are an AmeriCorps recipient or funded by a grant from AmeriCorps, and shall prominently display the AmeriCorps or AmeriCorps Seniors logo. Recipients and subrecipients shall prominently display the AmeriCorps, AmeriCorps Seniors, or appropriate AmeriCorps Day of Service name and logo on all service gear and

public materials, in accordance with AmeriCorps' requirements. Public materials are defined in the branding toolkit.

3. **Acknowledgement and Disclaimer on Published Materials.** The appropriate AmeriCorps or AmeriCorps Seniors logo shall be included on publications related to an award of AmeriCorps assistance or resources. An acknowledgement and disclaimer shall be displayed on all reports and other published materials based upon work supported by the award. The acknowledgement and disclaimer may contain language the same as or similar to:

   This material is based upon work supported by AmeriCorps under Grant No(s) [ ]. Opinions or points of view expressed in this document are those of the authors and do not necessarily reflect the official position of, or a position that is endorsed by, AmeriCorps."

4. **Brand Identification Through Publicity.** Recipients shall provide information or training to their AmeriCorps members, AmeriCorps Seniors volunteers, Day of Service volunteers, or Volunteer Generation Fund volunteers about how their programs, projects or initiatives are part of AmeriCorps. Recipients are strongly encouraged to place signs that include the AmeriCorps or AmeriCorps Seniors name and logo, or the appropriate AmeriCorps version of the Day of Service logo at all their service sites and may use the slogan "AmeriCorps Serving Here" or "AmeriCorps Seniors Serving Here," as appropriate. When AmeriCorps members and programs or AmeriCorps Seniors volunteers and programs are publicized – including but not limited to public speaking opportunities, press releases, news stories, blog posts, websites, social media posts, online videos, public service announcements, paid advertising, brochures and other communications channels – individuals must be identified as AmeriCorps members or AmeriCorps Seniors volunteers, while programs should be identified as AmeriCorps or AmeriCorps Seniors programs or projects and, where possible, appropriate logos must be displayed.

5. **Alteration of Brand Identities Prohibited Without AmeriCorps Written Permission**. Recipients may not alter the AmeriCorps or AmeriCorps Seniors logos or other AmeriCorps branding and must obtain written permission from AmeriCorps before using the AmeriCorps name or logo, or the AmeriCorps Seniors name or logo on materials that will be sold. Recipients must also obtain written permission from AmeriCorps before permitting donors to use the AmeriCorps name or logo, or the AmeriCorps Seniors name or logo in promotional materials.

6. **Prohibited Use or Display of Names and Logos for Certain Activities.** The recipient or subrecipient may not use or display the AmeriCorps name or logo, or the AmeriCorps Seniors name or logo in connection with any activity prohibited by statute or regulation, including any political activities.

I. REPORTING OF FRAUD, WASTE, AND ABUSE

Recipients must contact the OIG ***and*** their Portfolio Manager ***without delay*** when they ***first suspect***:

1. Any criminal activity or violations of law has occurred, such as:
    - Fraud, theft, conversion, misappropriation, embezzlement, or misuse of funds or property by any person, including AmeriCorps personnel, grantees, or contractors—even if no federal funds or property was involved;
    - Submission of a false claim or a false statement by any person in connection with any AmeriCorps program, activity, grant or operations;
    - Concealment, forgery, falsification, or unauthorized destruction of government or program records;
    - Corruption, bribery, kickbacks, acceptance of illegal gratuities, extortion, or conflicts of interest in connection with operations, programs, activities, contracts, or grants;
    - Other misconduct in connection with operations, programs, activities, contracts, or grants; or
    - Mismanagement, abuse of authority, or other misconduct by AmeriCorps personnel.

2. Fraud, waste, or abuse.
    - Fraud occurs when someone is intentionally dishonest or uses intentional misrepresentation or misleading omission to receive something of value or to deprive someone, including the government, of something of value.
    - Waste occurs when taxpayers do not receive reasonable value for their money in connection with a government-funded activity due to an inappropriate act or omission by people with control over or access to government resources.
    - Abuse is behavior that is deficient, objectively unreasonable, or improper under the circumstances. Abuse also includes the misuse of authority or position for personal financial gain or the gain of an immediate or close family member or business associate.

The OIG maintains a hotline to receive this information, which can be reached by email at hotline@cncsoig.gov or by telephone at (800) 452-8210. Upon request, OIG will take appropriate measures to protect the identity of any individual who reports misconduct, as authorized by the Inspector General Act of 1978, as amended. Reports to OIG may also be made anonymously.

The recipient should take no further steps to investigate suspected misconduct, except as directed by the OIG or to prevent the destruction of evidence or information.

J. WHISTLEBLOWER PROTECTION

1. This award and employees working on this award will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239).

2. An employee of a recipient may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or award, a gross waste of Federal funds, an abuse of authority (an arbitrary and capricious exercise of authority that is inconsistent with the mission of AmeriCorps or the successful performance of a contract or award of AmeriCorps) relating to a Federal contract or award, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or award.

3. The recipient shall inform its employees and contractors in writing, in the predominant language of the workforce or organization, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described above and at http://www.cncsoig.gov/whistleblower-protection.

K. LIABILITY AND SAFETY ISSUES

The recipient must institute safeguards as necessary and appropriate to ensure the safety of members and volunteers. Members and volunteers may not participate in projects that pose undue safety risks. Any insurance costs under the award must comply with 2 CFR § 200.447, which outlines what insurance costs are allowable.

L. AWARD MONITORING

1. **Site visits**. AmeriCorps may make site visits to review and evaluate recipient records, accomplishments, organizational procedures and financial control systems; to conduct interviews; and to provide technical assistance as necessary.

2. **Desk reviews.** AmeriCorps may conduct desk reviews to make limited verifications of recipient compliance with the terms of their award, conduct a review of the recipient's general management practices, and identify any practice or procedure that may require further scrutiny.

3. **Responding to information requests.** Pursuant to 2 CFR 200.336, AmeriCorps may from time to time request documentation from recipients in order to monitor the award or to comply with other legal requirements, such as the Improper Payments Information Act of 2002, as amended. ***Failure to make timely responses to such requests may result in award funds being placed on temporary manual hold, reimbursement only, or other remedies as appropriate.***

M. NON-DISCRIMINATION PUBLIC NOTICE AND RECORDS COMPLIANCE

1. **Public Notice of Non-discrimination**. The recipient must notify members, community beneficiaries, applicants, program staff, and the public, including those with impaired vision or hearing, that it operates its program or activity subject to the non-discrimination requirements applicable to their program found at §§ 175 and 176(f) of the NCSA or § 417

of the DVSA, and relevant program regulations found at 45 CFR Parts 2540 (AmeriCorps State and National), 2551 (Senior Companion Program), 2552 (Foster Grandparent Program), 2553 (RSVP), and 2556
(AmeriCorps VISTA). The notice must summarize the requirements, note the availability of compliance information from the recipient and AmeriCorps, and briefly explain procedures for filing discrimination complaints with AmeriCorps.

Sample language is:

Any benefits and terms and conditions of this program, are available to all without regard to race, color, national origin, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, genetic information and military service. [Grantee's name] policy and federal law prohibits reprisal for engaging in protected activity (reporting discrimination or harassment, participating in investigations of such allegations, or intervening to assist those who are subjected to prohibited behaviors), and it will not be tolerated. In addition to filing a complaint with local and state agencies that are responsible for resolving discrimination complaints, you may bring a complaint to the attention of the Corporation for National and Community Service. If you believe that you or others have been discriminated against, or if you want to seek advice, contact:

(Name, address, phone number – both voice and TTY, and preferably toll free – FAX number and email address of the recipient) or
Equal Employment Opportunity Office (EEOP)
Corporation for National and Community Service
250 E Street, SW
Washington, DC 20525
(202) 606-7503
eo@cns.gov (email)

The recipient must include information on civil rights requirements, complaint procedures and the rights of beneficiaries in member or volunteer service agreements, handbooks, manuals, pamphlets, and post in prominent locations, as appropriate. The recipient must also notify the public in recruitment material and application forms that it operates its program or activity subject to the nondiscrimination requirements. Sample language, in bold print, is: **This program is available to all, without regard to race, color, national origin, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, genetic information and military service.** Where a significant portion of the population eligible to be served needs services or information in a language other than English, the recipient shall take reasonable steps to provide written material of the type ordinarily available to the public in appropriate languages.

2. **Prohibition Against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons.** Pursuant to Executive Order (EO) 13166 – Improving Access to Services for Persons with Limited English Proficiency, recipients are required to provide meaningful

access to their programs and activities by LEP persons. For more information, please see the policy guidance at 67 FR 64604.

3. **Records and Compliance Information.** The recipient must keep records and make available to AmeriCorps timely, complete, and accurate compliance information to allow AmeriCorps to determine if the recipient is complying with the civil rights statutes and implementing regulations. Where a

recipient extends Federal financial assistance to subrecipients, the subrecipients must make available compliance information to the recipient so it can carry out its civil rights obligations in accordance with the records requirements at 2 CFR §§ 200.333-200.337 and § 200.331(a)(5).

4. **Obligation to Cooperate.** The recipient must cooperate with AmeriCorps so that AmeriCorps can ensure compliance with the civil rights statutes and implementing regulations. The recipient shall permit access by AmeriCorps during normal business hours to its books, records, accounts, staff, members or volunteers, facilities, and other sources of information as may be needed to determine compliance.

N. IDENTIFICATION OF FUNDING

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving AmeriCorps funds included, shall clearly state— (1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) the percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

O. AWARD PRODUCTS

1. **Sharing Award Products.** To the extent practicable, the recipient agrees to make products produced under the award available at the cost of reproduction to others in the field.

2. **Acknowledgment of Support.** Publications created by members, volunteers or award-funded staff must be consistent with the purposes of the award. The appropriate program AmeriCorps logo shall be included on such documents. The recipient is responsible for assuring that the following acknowledgment and disclaimer appears in any external report or publication of material based upon work supported by this award:

"This material is based upon work supported by AmeriCorps, the operating name of the Corporation for National and Community Service, *under Grant No.__. Opinions or points of view expressed in this document are those of the authors and do not necessarily reflect the official position of, or a position that is endorsed by, AmeriCorps or [the relevant AmeriCorps Program]."*

P. SUSPENSION OR TERMINATION OF AWARD

AmeriCorps may suspend or terminate this award in accordance with 2 CFR §§ 200. 200.339 and 200.340 (85 FR 49506, 49559-60) such as applicable AmeriCorps regulations and statutes. In addition, a recipient may suspend or terminate assistance to one of its subrecipients in accordance with 2 CFR §§ 200.339 and 200.340, provided that such action complies with 2 CFR § 200.341. 2 CFR § 200.340(a)(2) prohibits arbitrary termination of grant awards by AmeriCorps. As before the clarifications to 2 CFR Part 200, AmeriCorps may initiate termination for cause, or when (based on new evidence) there is a significant question about the feasibility or effectiveness of the intended objective of the award.

Q. GRANTEE PROCUREMENT

Pursuant to the National Defense Authorization Acts for both Fiscal Years 2017 and 2018, all AmeriCorps grant recipients are authorized to use a micro-purchase threshold of $10,000 and a simplified acquisition threshold of $250,000.

R. TRAFFICKING IN PERSONS

This award is subject to requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104).

1. Provisions applicable to a recipient that is a private entity.
   a. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not:
      i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
      ii. Procure a commercial sex act during the period of time that the award is in effect; or
      iii. Use forced labor in the performance of the award or subawards under the award.
   b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity
      i. Violates a prohibition in paragraph (a.) of this award term; or
      ii. Has an employee who violates a prohibition in paragraph (a.) of this award term through conduct that is either:
         (A.) Associated with performance under this award; or
         (B.) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR Part 2200.

2. Provisions applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is not a private entity–

a. Is determined to have violated an applicable prohibition of paragraph (1)(a.) of this award term; or

b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph (1)(a)(i) of this award term through conduct that is –

i. Associated with performance under this award; or

ii. Imputed to you using the standards and due process for imputing conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR Part 2200.

3. Provisions applicable to any recipient.

a. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (1)(a) of this award term.

b. Our right to terminate unilaterally that is described in paragraph (1) and (2) of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

c. You must include the requirements of paragraph (1)(a) of this award term in any subaward you make to a private entity.

4. Definitions. For purposes of this award term:

a. "Employee" means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose service are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

b. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

c. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR §175.25.

ii. Includes:

(a.) A nonprofit organization, including any non-profit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR § 175.25(b).

(b.) A for-profit organization.

d. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

S. SYSTEM OF AWARD MANAGEMENT (SAM) and UNIVERSAL IDENTIFIER REQUIREMENTS (Required provision under 2 CFR § 25.220)

1. Requirement for Central Contractor Registration (CCR): Unless you are exempted from this requirement under 2 CFR § 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

2. Requirement for Unique Entity Identifier: If you are authorized to make subawards under this award, you:
   a. Must notify potential subrecipients that no entity (see definition in paragraph c of this award term) may receive a subaward from you unless the entity has provided its unique entity identifier to you. *(AmeriCorps' eGrants system requires a DUNS number.)*
   b. May not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

3. Definitions. For purposes of this award term:
   a. System of Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at https://www.sam.gov/portal/public/SAM/).
   b. Unique Entity Identifier means the identifier required for SAM registration to uniquely identify business entities. (AmeriCorps' eGrants system requires DUNs numbers. DUNs stands for Data Universal Numbering System (DUNS) number a nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866- 7055711) or the Internet (currently at http://fedgov.dnb.com/webform).
   c. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
      i. A Governmental organization, which is a State, local government, or Indian Tribe;
      ii. A foreign public entity;
      iii. A domestic or foreign nonprofit organization;
      iv. A domestic or foreign for-profit organization; and
      v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
   d. Subaward:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR § 200.330.

iii. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

e. Subrecipient means an entity that:

i. Receives a subaward from you under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

T. TRANSPARENCY ACT REQUIREMENTS (for Grants and Cooperative Agreements of $30,000 or More)

Reporting Subawards and Executive Compensation:

1. Reporting of first-tier subawards.

a. Applicability. Unless you are exempt as provided in paragraph 4, of this award term (below), you must report each action that obligates $30,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph 5. of this award term).

b. Where and when to report.

i. You must report each obligating action described in paragraph 1.a. of this award term to http://www.fsrs.gov.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7th in a given year, the obligation must be reported by no later than the end of December.)

c. What to report. You must report the information about each obligating action that the submission instructions posted at http://www.fsrs.gov specify.

2. Reporting Total Compensation of Recipient Executives.

a. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if--

i. The total Federal funding authorized to date under this award is $30,000 or more;

ii. In the preceding fiscal year, you received--

(a.) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and

(b.) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial

assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives 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. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

b. Where and when to report. You must report executive total compensation described in paragraph (2.)(a.) of this award term:

i. As part of your registration profile at https://www.sam.gov/portal/public/SAM/.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

3. Reporting of Total Compensation of Subrecipient Executives.

a. Applicability and what to report. Unless you are exempt as provided in paragraph 4. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if--

i. In the subrecipient's preceding fiscal year, the subrecipient received--

(a.) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR §170.320 (and subawards); and

(b.) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR §170.320 (and subawards); and

ii. The public does not have access to information about the compensation of the executives 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. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

b. Where and when to report. You must report subrecipient executive total compensation described in paragraph 3.a. of this award term:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

4. Exemptions. If, in the previous tax year, you had gross income, from all sources, under $300,000, you are exempt from the requirements to report:
   a. Subawards, and
   b. The total compensation of the five most highly compensated executives of any subrecipient.

5. Definitions. For purposes of this award term:
   a. Entity means all of the following, as defined in 2 CFR Part 25:
      i. A Governmental organization, which is a State, local government, or Indian tribe;
      ii. A foreign public entity;
      iii. A domestic or foreign nonprofit organization;
      iv. A domestic or foreign for-profit organization;
      v. A Federal agency, but only as a subrecipient under an award or subaward to a non- Federal entity.
   b. Executive means officers, managing partners, or any other employees in management positions.
   c. Subaward:
      i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
      ii. The term does not include your procurement of property and services needed to
      carry out the project or program (for further explanation, see 2 CFR § 200.330).
      iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
   d. Subrecipient means an entity that:
      i. Receives a subaward from you (the recipient) under this award; and ii. Is accountable to you for the use of the Federal funds provided by the subaward.
   e. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR §229.402(c)(2)):
      i. Salary and bonus.
      ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
      iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
      iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

U. CONFLICT OF INTEREST

You must disclose in writing any potential conflict of interest to your AmeriCorps Portfolio Manager, or to the pass-through entity if you are a subrecipient or contractor. This disclosure must take place immediately. The AmeriCorps conflict of interest policies apply to subawards as well as contracts, and are as follows:

1. As a non-Federal entity, you must maintain written standards of conduct covering conflicts of interest and governing the performance of your employees engaged in the selection, award, and administration of subawards and contracts.

2. None of your employees may participate in the selection, award, or administration of a subaward or contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from an organization considered for a subaward or contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients or contractors or parties to subawards or contracts.

3. If you have a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, you must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, you are unable or appear to be unable to be impartial in conducting a subaward or procurement action involving a related organization.

V. AWARD TERM AND CONDITION FOR RECIPIENT INTEGRITY AND PERFORMANCE MATTERS (Required provision under 2 CFR § 200.210(b)(iii) for grants and cooperative agreements of $500,000 or more)

1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the

Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five year period; and

c. Is one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

(ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater

than $10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—
   (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
   (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

W. BREACHES OF PERSONALLY IDENTIFIABLE INFORMATION (PII)

All recipients and subrecipients need to be prepared for potential breaches of Personally Identifiable Information, PII. OMB defines PII as any information about an individual, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc., including any other personal information which is linked or linkable to an individual. All recipients and subrecipients must ensure that they have procedures in place to prepare for and respond to breaches of PII, and notify the Federal awarding agency in the event of a breach.

If your AmeriCorps grant-funded program or project creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of PII within the scope of that Federal grant award, or uses or operates a Federal information system, you must establish procedures to prepare for and respond to a potential breach of PII, including notice of a breach of PII to AmeriCorps. Grantees experiencing a breach should immediately notify AmeriCorps' Office of Information Technology, and the AmeriCorps Portfolio Manager.

IV. ATTACHMENT

AmeriCorps

Program Non-Harassment and Civil Rights Policy – Nov. 18, 2020

AmeriCorps (the Corporation for National and Community Service adopted the operating name "AmeriCorps" as of September 29, 2020) has zero tolerance for unlawful harassment of any individual or group of individuals engaged in national service. AmeriCorps is committed to treating all persons with dignity and respect. Our agency prohibits all forms of discrimination and harassment based on race, color, national origin, gender, age (40 and over), religion, sexual orientation, disability (mental or physical), gender identity or expression, political affiliation, marital or parental status, pregnancy, reprisal, genetic information (including family medical history), or military service. All programs administered by or receiving federal financial assistance from AmeriCorps must be free from all forms of discrimination and harassment.

Harassment may include slurs and other verbal or physical conduct relating to an individual's gender, race, ethnicity, religion, sexual orientation, or any other legally-protected status when such behavior has the purpose or effect of interfering with service performance or creating an intimidating, hostile, or offensive service environment. Examples of harassing conduct include but are not limited to: explicit or implicit demands for sexual favors; pressure to engage in a romantic relationship or for dates; deliberate touching of another person without consent, leaning over, or cornering a person; repeated offensive teasing, jokes, remarks, or questions; unwanted letters, emails, or phone calls; distribution or display of offensive materials; offensive looks or gestures; gender, racial, ethnic, or religious baiting; physical assaults or other threatening behavior; and demeaning, debasing, or abusive comments or actions that intimidate.

AmeriCorps does not tolerate harassment from anyone, including any AmeriCorps employee or supervisor; a project or site employee or supervisor; a non-employee (e.g., client); a co-worker; a national service participant. Any discrimination or harassment, when identified, will result in immediate corrective action, up to and including, removal or termination of any individual engaging in such misconduct.

All recipients receiving AmeriCorps financial or volunteer assistance, including individuals, organizations, programs, and/or projects are subject to this zero-tolerance policy. Recipients must take immediate corrective action to investigate and rectify any complaints of any discrimination or harassment. Any AmeriCorps awardee permitting discrimination or harassment in violation of this policy will be subject to a finding of non-compliance, which may result in termination of federal financial assistance.

Harassment based on upon race, color, national origin, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, pregnancy, reprisal, genetic information, or military service is unacceptable in AmeriCorps' offices or campuses, in other service-related settings such as training sessions or service sites, and at service-related social events. I expect supervisors and managers of AmeriCorps programs and projects, when made aware of alleged discrimination or harassment by employees, national service participants, or any other individuals, to investigate and take prompt action to effectively address any discrimination or harassment. AmeriCorps prohibits any retaliatory action against a person who raises any discrimination or harassment concerns.

If you believe you have been discriminated against in violation of any civil rights laws, regulations, or this policy, or have been subject to retaliation for opposing discrimination or participating in discrimination complaint proceedings (e.g., as a complainant or witness) in any AmeriCorps program or project, contact the AmeriCorps Equal Opportunity Program (EOP). The EOP may be reached at (202) 606-7503 or eo@cns.gov.

The EOP manages national service participant civil rights and harassment concerns. You must contact the EOP within 45 calendar days of an occurrence of discrimination or harassing conduct. You are not required to use a program, project, or sponsor dispute resolution procedure before contacting the EOP. If you choose to pursue another dispute resolution procedure, it does not suspend the 45-day time limit requirement to contact the EOP. Discrimination and harassment claims brought to the attention of the EOP outside 45 calendar days of an occurrence may not be accepted for investigation in a formal complaint of discrimination.

Barbara Stewart

Barbara Stewart
Chief Executive Officer
AmeriCorps

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:

_____

ALAN M. WEBBER, MAYOR

DATE: _____

ATTEST:

_____

KRISTINE MIHELCIC-BUSTOS, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jul 7, 2021 11:54 MDT)

MARCOS MARTINEZ, SENIOR ASSISTANT CITY ATTORNEY

APPROVED:

_____

MARY MCCOY, FINANCE DIRECTOR

2410116/490510 AJH
AJH

ORG/OBJECT

City of Santa Fe New Mexico
Memorandum

Date: July 15, 2021

To: Finance Committee
Quality of Life Committee
Governing Body

From: Geralyn F. Cardenas, Assistant City Clerk GC

Via: Kristine M. Mihelcic, City Clerk / Community Engagement Director KM

RE: 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, 2021.

EXECUTIVE SUMMARY:
The proposed resolution authorizes the sale and consumption of beer and wine at the Montezuma Pocket Park during the Sky Railway Grand Opening on September 3 and 4, 2021 pursuant to the requirements of Section 23-6.2(A) SFCC 1987.

BACKGROUND:
Section 23-6.2(A) SFCC 1987, requires for the approval of the sale and consumption of alcohol on City property. Exceptions to this requirement do not apply to the Montezuma Pocket Park area of the Railyard

Highgarden Entertainment, LLC desires to operate a beer and wine garden on the weekend of September 3-4, 2021, at the Montezuma Pocket Park in conjunction with the Sky Railway Grand Opening.

ACTION REQUESTED:
Request for approval of the 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, 2021.

ATTACHMENTS:
Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-__

INTRODUCED BY:

Councilor Renee Villarreal

A RESOLUTION

AUTHORIZING THE SALE AND CONSUMPTION OF BEER AND WINE AT THE MONTEZUMA POCKET PARK FOR THE SKY RAILWAY GRAND OPENING ON SEPTMBER 3 AND 4, 2021, PURSUANT TO SECTION 23.6.2(C) SFCC 1987.

WHEREAS, the Governing Body adopted Ordinance No. 2017-3 on March 8, 2017 that created a new process for approving the sale and consumption of alcohol on city property, which is codified as Section 23-6.2(A); and

WHEREAS, for locations not specifically mentioned in Section 23-6.2(A) SFCC 1987, the ordinance requires the approval by the Governing Body of a resolution that specifies the event, date, hours, location, number of expected attendees, type of alcohol to be served, and require permits must be requested 30 days prior to the event; and

WHEREAS, Highgarden Entertainment, LLC, desires to operate a beer and wine garden on the weekend of September 3-4, 2021, at the Montezuma Pocket Park in conjunction with the Sky Railway grand opening; and

WHEREAS, the Montezuma Pocket Park is a City of Santa Fe Park at which alcohol is

not usually served; and

WHEREAS, Highgarden Entertainment, LLC, has committed to providing alcohol service for this event that would adhere to all regulations required in Section 23-6.3 SFCC 1987.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that alcohol service for the following event is hereby approved:

Event: Sky Railway Grand Opening

Date: September 3-4, 2021

Hours: 12 p.m. to 10:00 p.m. Friday and 12 p.m. to 10:00 p.m. Saturday

Location: Montezuma Pocket Park (located directly to the east of the Jean Cocteau Cinema between the building located at 418 Montezuma Avenue and the railroad tracks)

Number of Expected Attendees: 130

Type of Alcohol to be served: beer and wine

Required Permits: Special Dispenser Permit

Required Insurance: liquor liability insurance in the amount of $1,050,000.00

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/Alcohol Consumption at Montezuma Park

FIR No. 3344

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): **Alcohol Consumption at Montezuma Park**

Sponsor(s): Councilwoman Renee Villarreal

Reviewing Department(s): Community Engagement

Staff Completing FIR: Geralyn F. Cardenas Date: 07/13/2021 Phone: 505-955-6519

Reviewed by City Attorney: _____ Date: Jul 15, 2021

Reviewed by Finance Director: Alexis Lotero Date: Jul 15, 2021
Alexis Lotero (Jul 15, 2021 17:10 MDT)

Summary:
This Resolution approves the sale and consumption of Beer and Wine at the Montezuma Pocket Park for the Sky Railway Grand Opening on September 3rd and 4th, 2021. This Resolution is pursuant to the requirements for the approval of the sale and consumption of alcohol on City property provided for in Section 23-6.2(C) SFCC 1987.

Departments Affected:
Parks and Recreation Department

Consequences of Not Enacting Legislation:
No Alcohol will be allowed at the Sky Railway Grand Opening.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
Relates to Section 23-6.2(C) SFCC 1987 which requires the adoption of a Resolution to permit the sale and consumption of alcohol on City property.

Performance and Administrative Implications:
None identified.

Fiscal Implications:
None identified.

Fiscal Impact

X Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
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: Geralyn Cardenas (Jul 15, 2021 13:52 MDT)

Email: gfcardenas@santafenm.gov

Signature: Kristine Mihelcic (Jul 15, 2021 14:30 MDT)

Email: kmmihelcic@santafenm.gov

City of Santa Fe New Mexico
Memorandum

Date: July 15, 2021

To: Quality of Life Committee, Finance Committee, and Governing Body

From: Jesse Guillen, Legislative Liaison

RE: Wine and Chile Supplemental Alcohol Approval

EXECUTIVE SUMMARY:

The proposed Resolution authorizes the consumption of wine at the Wine and Chile Fiesta Grand Tasting event on the Friday of the Fiesta from 2021-2024.

BACKGROUND:

In 2019 the Governing Body adopted Resolution No. 2019-49 that authorized the consumption of wine at Fort Marcy/Mager's Field for the Wine and Chile Fiesta's Grand Tasting event held the last Saturday of September in 2020-2024. Due to the COVID-19 pandemic, the 2020 event was canceled, and the Wine and Chile Fiesta desires to hold two grand tasting events in 2021, and possibly continue the format in future years, with fewer numbers of people at each event. This Resolution is requesting the approval for the consumption of wine on the Friday of Wine and Chile Fiesta, the day prior to those dates already approved by the Governing Body.

The dates for the events authorized by adoption of this Resolution are:
September 24, 2021
September 23, 2022
September 29, 2023
September 27, 2024

The dates for the events previously authorized by the Governing Body are:
September 25, 2021
September 24, 2022
September 30, 2023
September 28, 2024

ATTACHMENTS:

Resolution
Exhibit A – Resolution No. 2019-49
Exhibit B – Draft Layout
Fiscal Impact Report

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-__

INTRODUCED BY:

Councilor Signe I. Lindell

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, FOR THE YEARS 2021-2024, PURSUANT TO SUBSECTION 23-6.2(C) SFCC 1987.

WHEREAS, the Governing Body adopted Ordinance No. 2017-3 on March 8, 2017, which created a new process for approving the consumption of alcohol on city property which is codified as Section 23-6.23(A); and

WHEREAS, for locations not specifically mentioned in Section 23-6.2(A) SFCC 1987, the ordinance requires the approval by the Governing Body of a resolution that specifies the event, date, hours, location, number of expected attendees, type of alcohol to be served, permits, and insurance is required at least thirty days prior to the event; and

WHEREAS, the Santa Fe Wine and Chile Fiesta ("SFWCF") is celebrating its 30th anniversary in 2021; and

WHEREAS, the Santa Fe Wine and Chile Fiesta is an event which has become nationally

recognized as a premier wine tasting event; and

WHEREAS, the SFWCF has become a strong tourism economic generator for the City of Santa Fe with an overall annual impact to Santa Fe in excess of $5.5 million according to a 2018 Southwest Planning and Marketing economic impact analysis; and

WHEREAS, the 2020 Wine and Chile Fiesta Grand Tasting and all in-person events were canceled as a result of the COVID-19 pandemic; and

WHEREAS, the SFWCF desires to host two Grand Tasting events in 2021, and may wish to continue that format in future years, with each day limited to just over half the normal number of attendees to allow for more space between guests; and

WHEREAS, Resolution No. 2019-49 (attached as Exhibit A) authorized the service of wine at Fort Marcy Park/Mager's Field on the last Saturday of September from 2020-2024; and

WHEREAS, the SFWCF seeks authorization from the Governing Body to serve wine on the Friday preceding the previously approved Saturday, 2021-2024 subject to the same terms as previously adopted; and

WHEREAS, SFWCF agrees to offer complimentary transportation for attendees to and from the grand tasting; and

WHEREAS, alcohol service for this tasting event is requested to be limited to wine and shall adhere to all regulations required in Section 23-6.3 SFCC 1987.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that alcohol service for the following event is hereby approved.

Event:	Santa Fe Wine and Chile Grand Tasting
Date:	September 24, 2021; September 23, 2022; September 29, 2023; and September 27, 2024.
Hours:	12:00pm to 4:00pm
Location:	Fort Marcy Park/Mager's Field

Number of expected attendees:	2,000 (including 500 event, restaurant, and winery staff)
Type of alcohol to be served:	Wine
Permit(s):	Public Celebration permits for local wineries, Competition permits for out-of-state wineries, and a Special Dispenser permit for the Aspen Vista tent
Required insurance:	Liquor liability insurance in the amount of $1,050,000.00

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

EXHIBIT A

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2019-49

INTRODUCED BY:

Councilor Signe I. Lindell

Councilor Peter N. Ives

Councilor Ramon "Tiger" Abeyta

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 ON THE LAST SATURDAY OF SEPTEMBER, 2020-2024, PURSUANT TO SUBSECTION 23-6.2(B) SFCC 1987.

WHEREAS, the Governing Body adopted Ordinance No. 2017-3 on March 8, 2017, which created a new process for approving the consumption of alcohol on city property; and

WHEREAS, for locations not specifically mentioned in Section 23-6.2(A) SFCC 1987, the Governing Body's approval of a resolution that specifies the event, date, hours, location, number of expected attendees, type of alcohol to be served, permits, and insurance is required at least thirty days prior to the event; and

WHEREAS, the Santa Fe Wine and Chile Fiesta is celebrating its 30th anniversary in 2020, an event which has become nationally recognized as a premier wine tasting event; and

WHEREAS, the Santa Fe Wine and Chile Fiesta has become a strong tourism economic generator for the City of Santa Fe with an overall annual impact to Santa Fe in excess of $5.5

million according to a 2018 Southwest Planning and Marketing economic impact analysis; and

WHEREAS, the Santa Fe Wine and Chile Fiesta's Board of Directors desires to hold its annual grand tasting on City of Santa Fe property; and

WHEREAS, Santa Fe Wine and Chile Fiesta will offer complimentary transportation for attendees to and from the grand tasting; and

WHEREAS, alcohol service for this tasting event will be limited to wine and shall adhere to all regulations required in Section 23-6.3 SFCC 1987; and

WHEREAS, the Santa Fe Wine and Chile Fiesta Board of Directors wishes to host the event on City property for the next five years.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that alcohol service for the following event is hereby approved.

Event:	Santa Fe Wine and Chile Grand Tasting
Date:	September 26, 2020; September 25, 2021; September 24, 2022; September 30, 2023; and September 28, 2024
Hours:	12:00pm to 4:00pm
Location:	Fort Marcy Park/Mager's Field
Number of expected attendees:	3,500 (including 500 staff and participating restaurants and wineries)
Type of alcohol to be served:	Wine
Permit(s):	Public Celebration permits for local wineries, Competition Permits for out-of-state wineries, and a Special Dispenser Permit for the Aspen Vista tent
Required insurance:	Liquor liability insurance in the amount of $1,050,000.00

PASSED, APPROVED, and ADOPTED this 11th day of September, 2019.

ALAN M. WEBBER, MAYOR

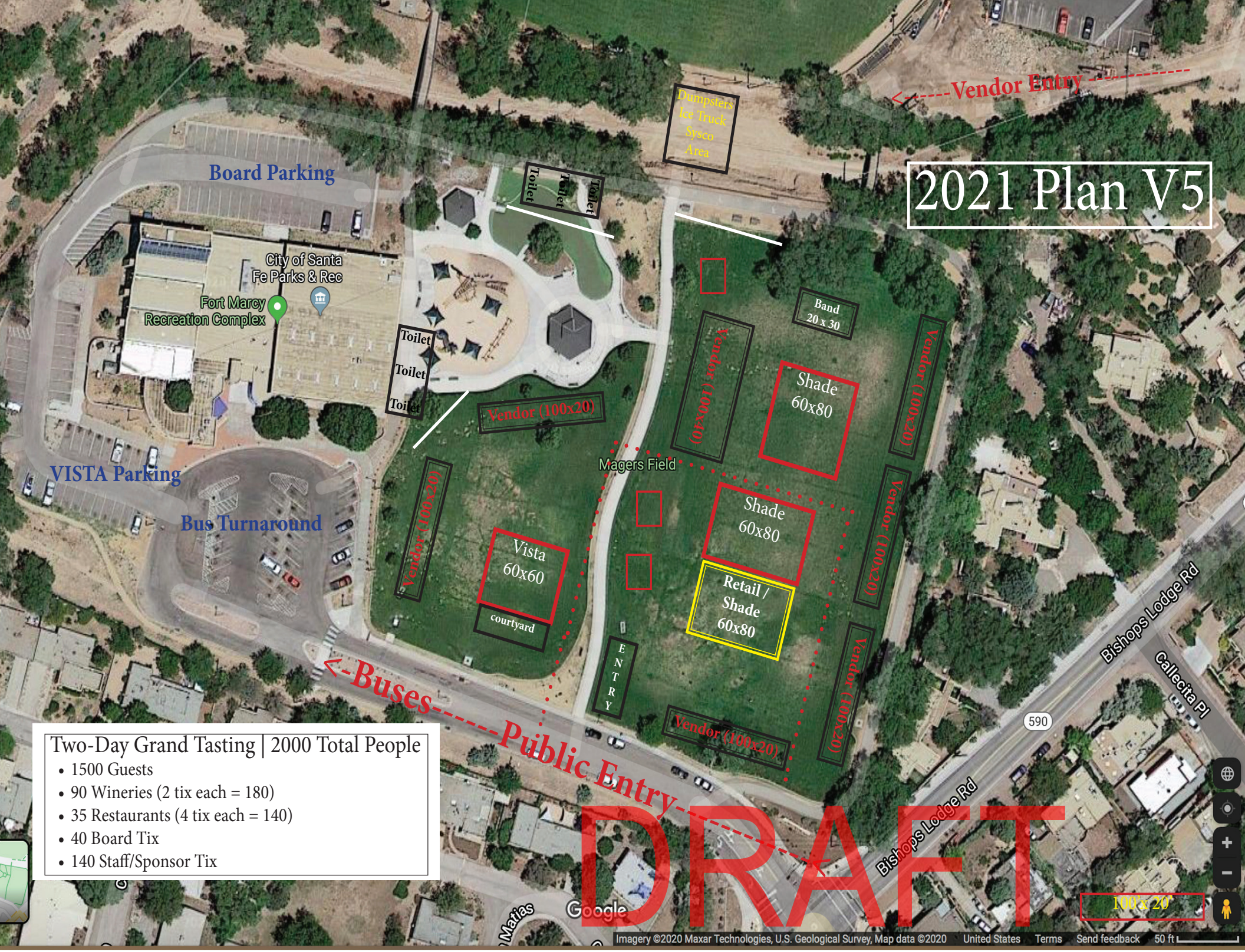
ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2019/Resolutions/2019-49 Wine and Chile Alcohol Approval



Two-Day Grand Tasting | 2000 Total People

- 1500 Guests
- 90 Wineries (2 tix each = 180)
- 35 Restaurants (4 tix each = 140)
- 40 Board Tix
- 140 Staff/Sponsor Tix

FIR No. 3341

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): Wine and Chile Supplemental Alcohol Approval

Sponsor(s): Councilor Lindell

Reviewing Department(s): City Attorney's Office/Legislative Services

Staff Completing FIR: Jesse Guillen Date: 7/6/21 Phone: 955-6518

Reviewed by City Attorney: _____ Date: _____

Reviewed by Finance Director: Alexis Lotero Date: Jul 15, 2021
Alexis Lotero (Jul 15, 2021 17:11 MDT)

Summary:
The proposed Resolution authorizes the consumption of alcohol for the Santa Fe Wine and Chile Fiesta's Grand Tasting on the Friday of the Fiesta from 2021-2024. The Governing Body previously approved the consumption of alcohol at Fort Marcy/Mager's Field on the Saturday of the Fiesta from 2020-2024, but last year's event was canceled as a result of the COVID-19 pandemic. In order to provide a less crowded atmosphere, the Wine and Chile Fiesta is proposing two grand tasting events, a format they may wish to continue in future years. The Santa Fe Wine and Chile Fiesta is consistently one of the top food and wine events in the country with winemakers, chefs, and visitors traveling from across the US and the world to attend. A previous study estimated the week-long festival injects $5.5 million into the local economy, while providing restaurants with sustained exposure throughout the week. The Fiesta provides transportation to attendees and encourages all attendees to make use of the service.

Departments Affected:
City Clerk's Office, Finance.

Consequences of Not Enacting Legislation:
The Wine and Chile Fiesta will not be permitted to hold a second Grand Tasting each year on the Friday of the Fiesta.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
This Resolution relates to Resolution No. 2019-49. The provisions of the proposed Resolution are pursuant to Section 23-6.2(C) SFCC 1987 which authorizes the consumption of alcohol on City property by adoption of a Resolution by the Governing Body.

Performance and Administrative Implications:
The City Clerk's Office will be responsible for issuing the required permits and ensuring the event meets all of the requirements set forth in Section 23-6.3(B)(7).

Fiscal Implications:
Most revenue generated from various permit fees for the grand tastings would be paid regardless of whether or not this Resolution is adopted. The additional revenue from adoption of this Resolution is from a $25 public celebration permit fee per winery, a $25 special dispenser permit fee, and $390 for costs associated with Parks, including administrative overtime. The total revenue generated by the City from each Friday event is $2,640.

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*	$210	$214	$218	N	R		
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$210	$214	$218				$642

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

Expenditure Narrative:

The expenditures are for the park supervisor fee and associated overtime. Subsequent years have a 2% salary increase per year.

Revenue

Revenue Type	FYE 22	FYE 23	FYE 24	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$2,665	$2,669	$2,673	R	
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$2,665	$2,669	$2,673		

Revenue Narrative:

90 public celebration permits at $25 each and one special dispenser permit at $25 equals $2,275. Revenue from Parks fees equal $390 the first year, $394 the second, and $398 the third. The final year of the event under this Resolution would occur in FYE25.

Signature: 

Email: jbguillen@ci.santa-fe.nm.us

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.

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

Prepared by Drug Policy Alliance

April 2021

We are the Drug Policy Alliance.

Contents

3 • INTRODUCTION

3 • METHODOLOGY

4 • ANALYSIS

- 4 • Summary of Interview with Staff and Residents
- 5 • Summary of Santa Fe's Municipal Drug Strategy Task Force Recommendations
- 6 • Sample of City Revenue Distribution Post-legalization

9 • LESSONS LEARNED ABOUT LOCAL CANNABIS REVENUE ALLOCATION AND MANAGEMENT

9 • SUMMARY OF PASSED LEGISLATION

14 • PROPOSED ROAD MAP & RECOMMENDATIONS

16 • APPENDICES

- 16 • Appendix A: Santa Fe Poll of Likely City Voters
- 17 • Appendix B: Interviews with City Staff
- 24 • Appendix C: The Santa Fe Plan: A Municipal Public Health and Safety Approach to Alcohol and Drugs
- 76 • Appendix D: The Denver Collaborative Approach: Leading the Way in Municipal Marijuana Management
- 93 • Appendix E: House Bill 2: Cannabis Regulation Act
- 265 • Appendix F: Senate Bill 2: Expungement of Certain Criminal Records

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
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- 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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Contents

4 • EXECUTIVE SUMMARY

5 • Municipal Drug Strategy Model

7 • Municipal Drug Task Force Process

8 • SUMMARY OF FINDINGS

8 • Drug and Alcohol Impact

9 • Community Conversation Findings

11 • Poll of Registered Voters

12 • RECOMMENDATIONS

12 • Municipal Drug Strategy Framework

13 • Recommendations

14 • Leadership, Governance and Accountability

15 • Economic Security and Community Development

17 • Prevention and Education

19 • Recovery-oriented Treatment and Harm Reduction

23 • Public Safety and Human and Civil Rights

27 • Advocacy

30 • ENDNOTES

32 • APPENDICES

32 • Appendix A: Resolution

38 • Appendix B: Community Conversation Findings Report

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?

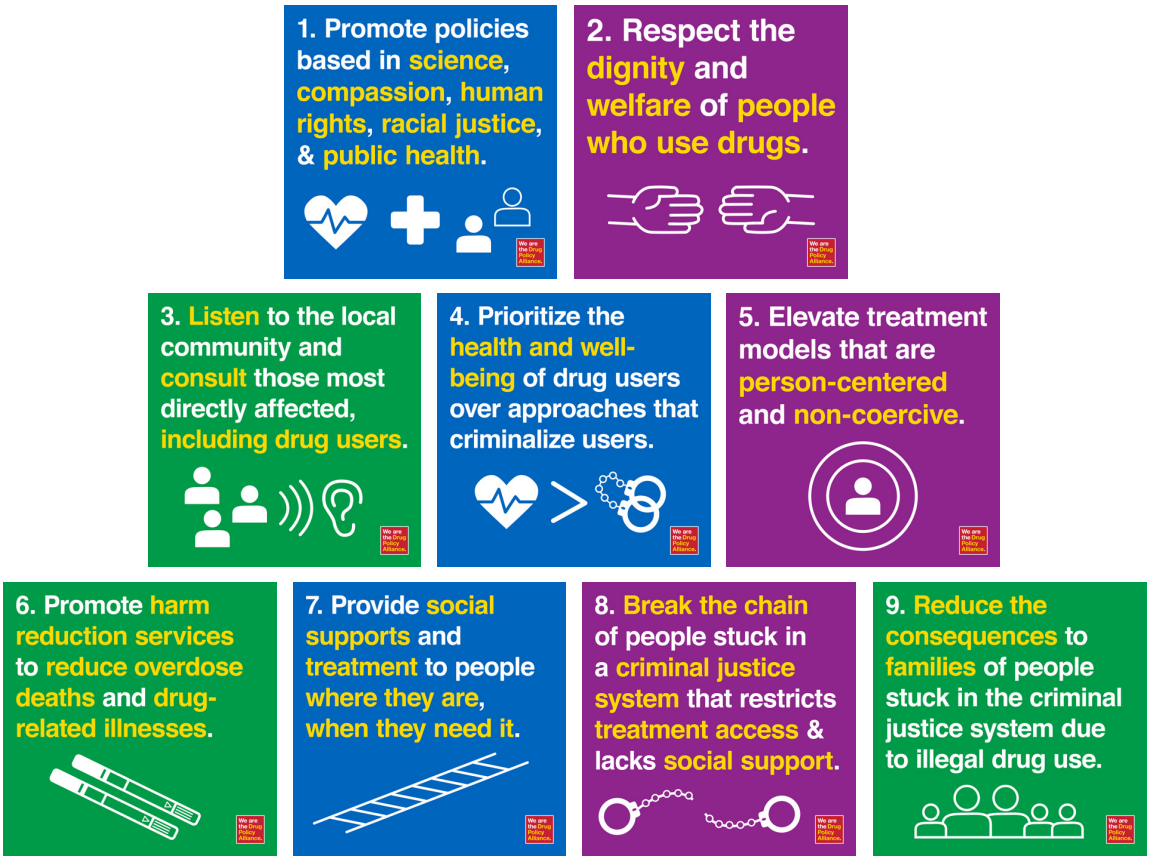
As outlined in the Drug Policy Alliance's white paper "Municipal Drug Strategy: Lessons in Taking Drug Policy Reform Local," the following are components of a municipal drug strategy model that are central to the Santa Fe Plan.

- 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.

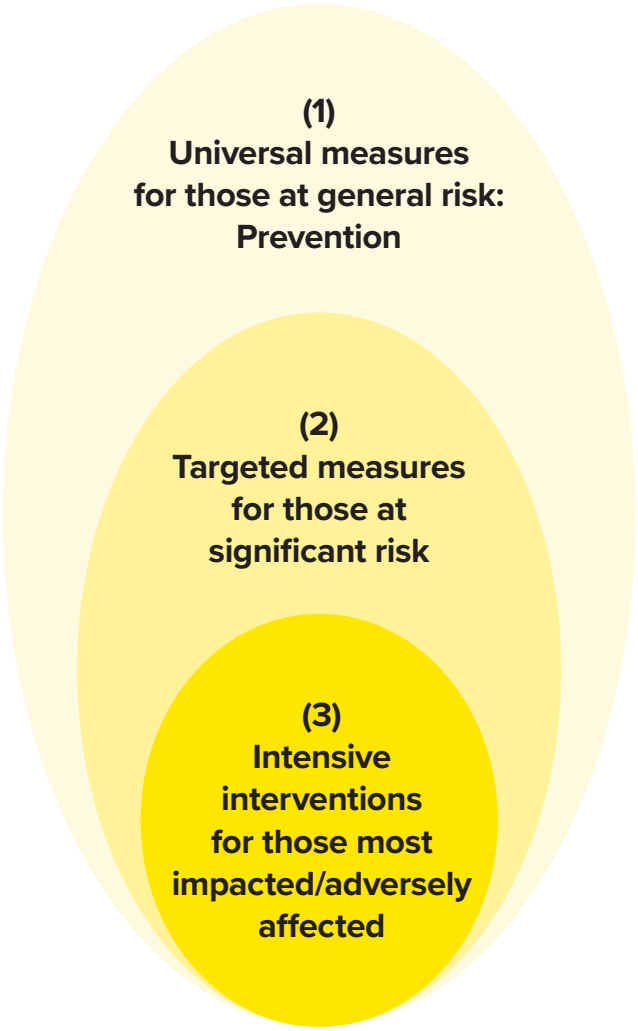
Recommendation Categories:

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.

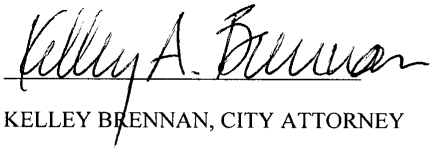
PASSED, APPROVED AND ADOPTED this 25th day of October, 2017.

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

Contents

Introduction 4

Community Conversation Process 4

Summary of Findings 5

Feedback from Individuals Impacted in the Community

Prevention 5

Treatment 6

Harm Reduction 8

Emergency Response/Public Safety 8

Feedback from Stakeholders 11

Prevention 11

Treatment 12

Harm Reduction 13

Emergency Response/Public Safety 14

Differing Perceptions Among Community Members 15

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

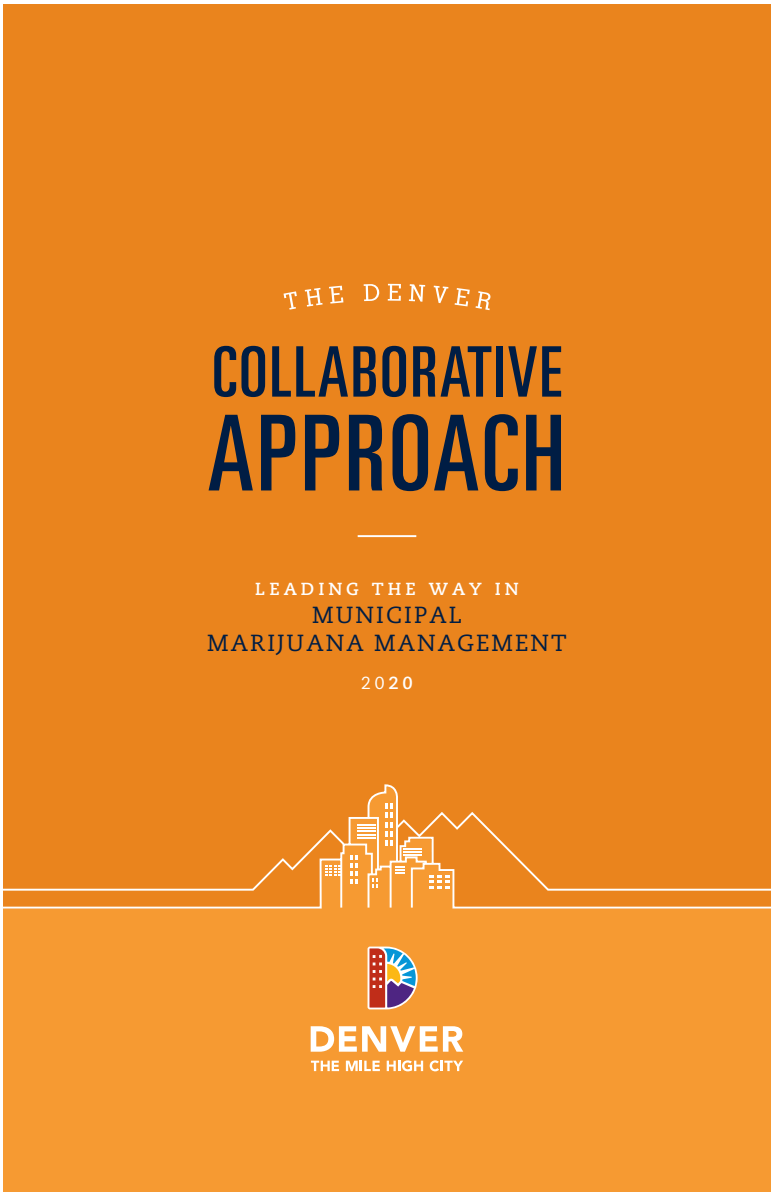


TABLE OF CONTENTS

I	Introduction	2
II	Industry	5
III	Tax, Sales & Revenue	9
IV	Budget	13
V	Accomplishments	16
VI	Enforcement	25

I. INTRODUCTION

MARIJUANA IN THE MILE HIGH CITY

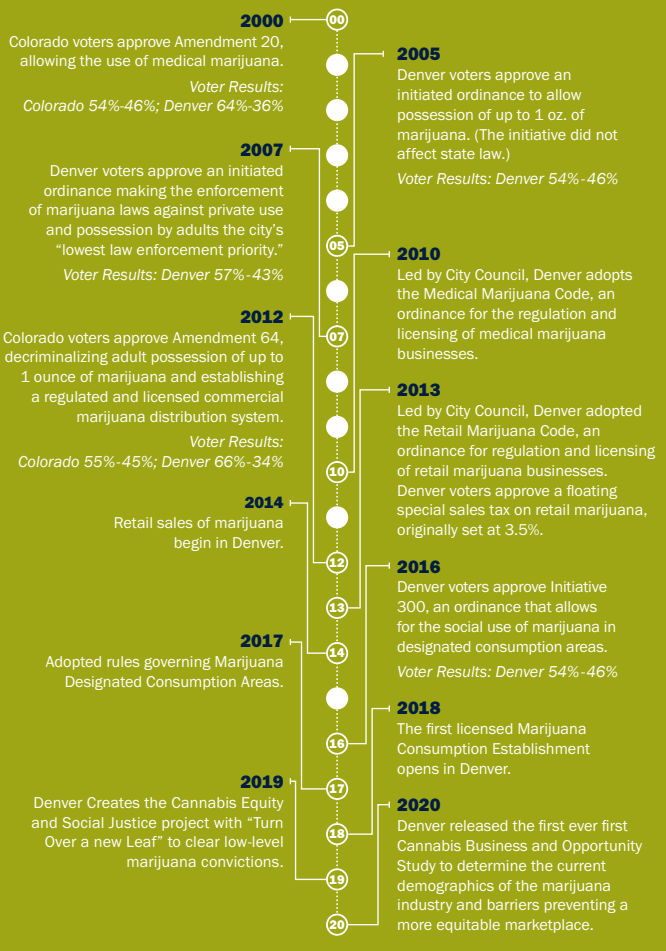
The first retail sales of recreational marijuana in the United States began in Denver on Jan. 1, 2014. Under Mayor Michael B. Hancock, Denver created a collaborative model of marijuana management and emerged as a global leader in marijuana regulation. Denver has embraced a management model that is quick, 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

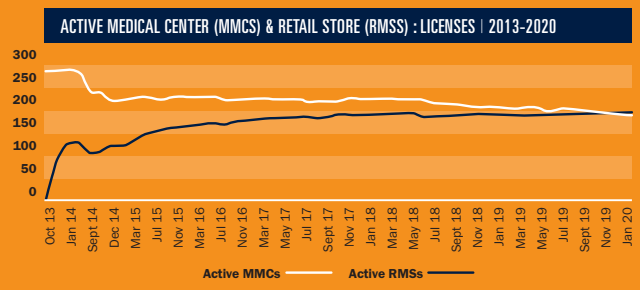
** The decrease from 2014 to 2015 in medical marijuana licenses happened in part because medical marijuana businesses that did not obtain both state and city licenses by July 1, 2014 were required to cease operations.*

** 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:

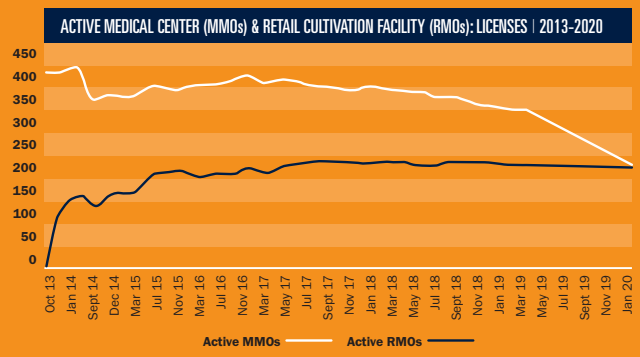
Active Medical Center (MMC) licenses were down -9% from 184 in January 2019 to 167 in January 2020.

Active Retail Store (RMS) licenses increased by 2%, from 167 in January 2019 to 170 in January 2020.

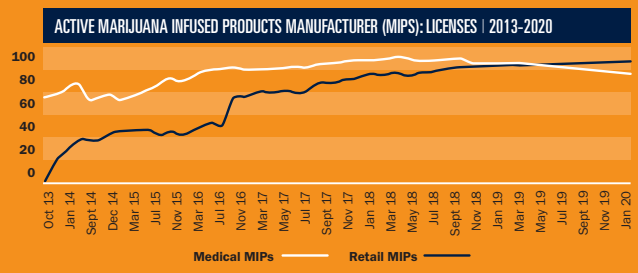


The number of active Medical Optional Premises Cultivation licenses declined -36% from the prior year, down to 214 in January 2020 from 336 in January 2019. This is a result of state law allowing only one medical license per location.

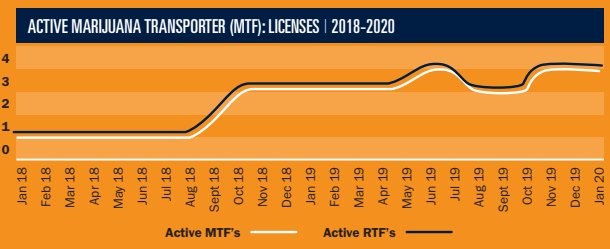
During that same time frame, active Retail Cultivation Facility licenses decreased -7% from 2019 – going from 215 in January 2019 down to 199 in January 2020.



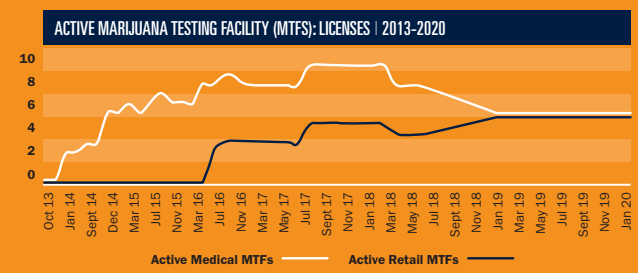
Medical Marijuana Infused Products Manufacturer licenses declined 10% during the same time frame, going from 93 in January 2019 to 84 as of January 2020. Active Licenses for Retail Marijuana Infused Products Manufacturers increased 8% over the prior year, going from 89 in January 2019 to 96 in January 2020.



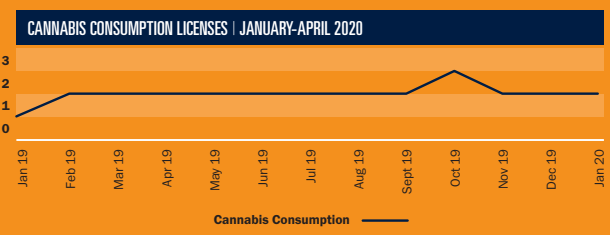
As of January 2020, the City had 4 active Medical Marijuana Transporter licenses and 4 active Retail Marijuana Transporter licenses. Both Medical & Retail Marijuana Transporter licenses increased 33%, going from 3 in January 2019 to 4 in January 2020.



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.

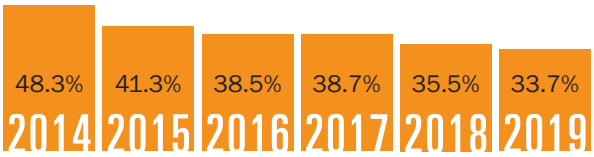
Note: 2014 and 2015 values for Colorado marijuana sales published in previous reports have since updated with current Treasury data.

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?

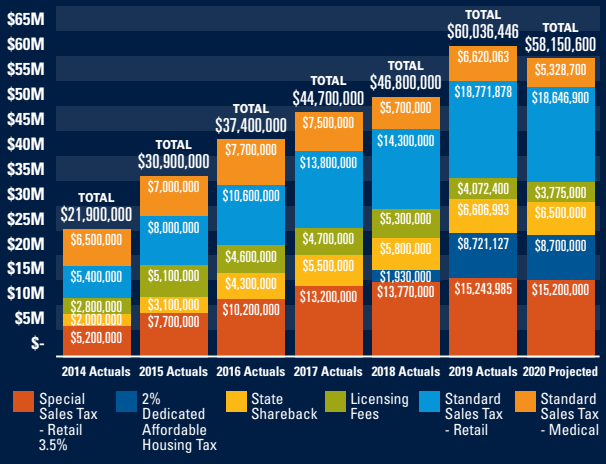
The following results are total Denver marijuana sales / total Colorado marijuana sales. From 2014 – 2019, Denver's portion of Colorado marijuana sales has declined by 15%, from 48.3% in 2014 to 33.7% in 2019. This indicates marijuana sales increased outside of Denver (at a higher rate than occurred 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

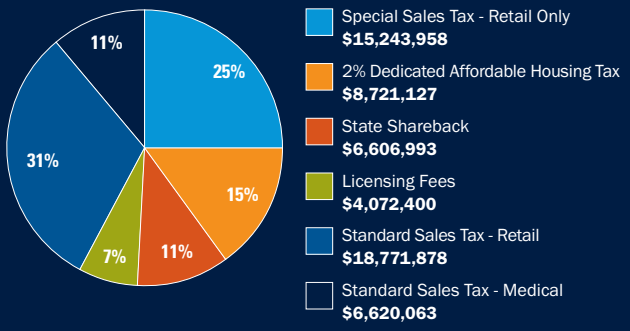
2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals	2019 Actuals	2020 Projected
$1,124,674,402	$1,204,306,900	$1,238,208,804	$1,309,418,915	$1,343,348,264	$1,406,061,854	$1,485,509,355
1.95%	2.57%	3.02%	3.41%	3.5%	4.3%	3.9%

**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:

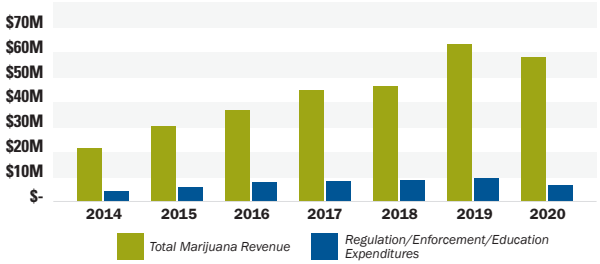
- **Regulation**
- **Education**
- **Enforcement**

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.

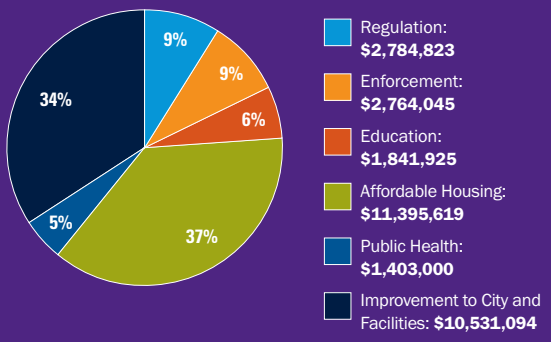
Additionally, in 2020, $23.4 million from marijuana-related revenue was appropriated to add investments for deferred maintenance, affordable housing, opioid intervention and other one-time equipment costs.

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.).

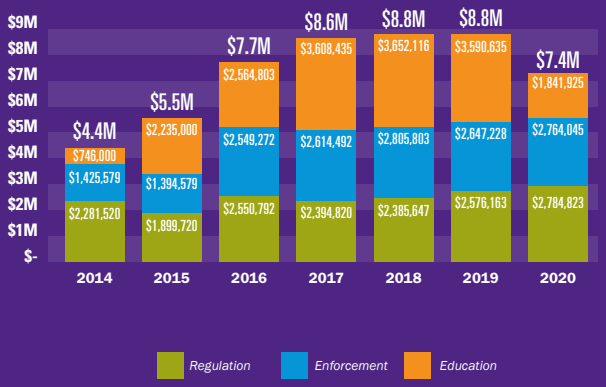
GENERAL FUND REVENUE AFTER REGULATION, ENFORCEMENT, EDUCATION



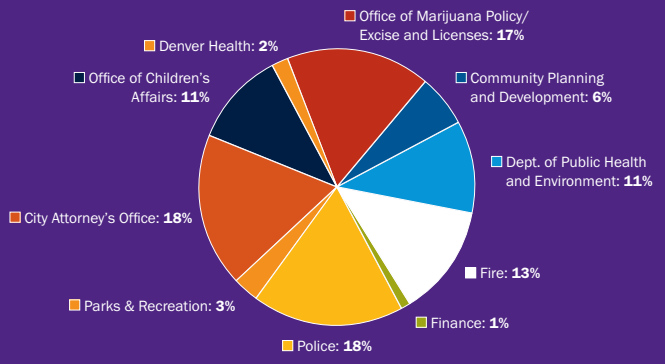
2020 RETAIL MARIJUANA SPECIAL SALES TAX AND STATE SHAREBACK ALLOCATION



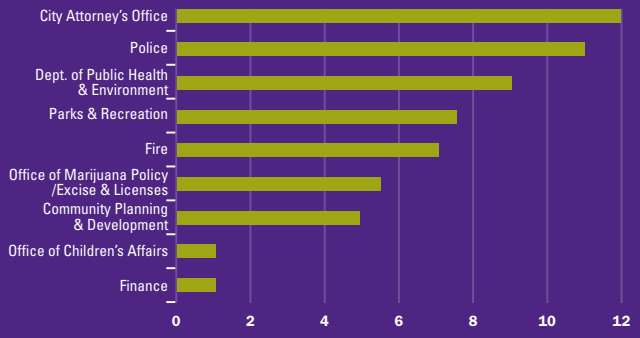
REGULATION, ENFORCEMENT, AND EDUCATION EXPENDITURES:



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.

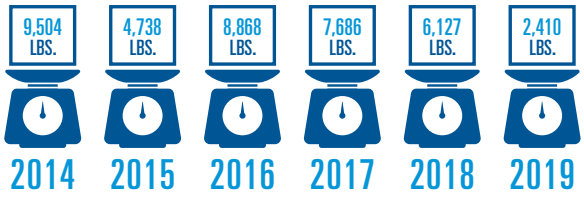
WHAT DOES THE BLACK MARKET LOOK LIKE?

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.*

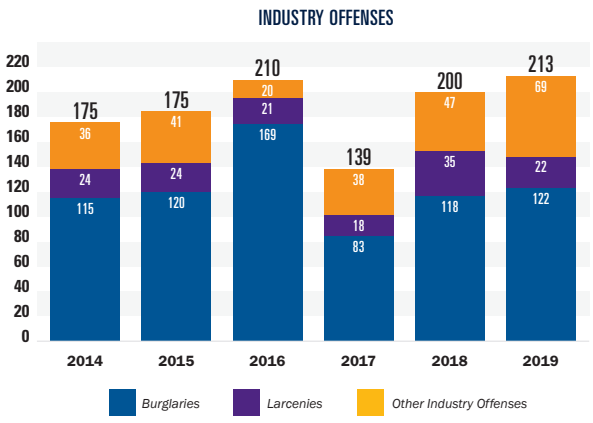
*** Other Non-Industry Related Crime entails reported criminal offenses that are not direct violations of marijuana law and do not have a clear connection to a licensed business, yet marijuana is believed to be the motive for the crime. For example, if someone is growing four marijuana plants in their 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

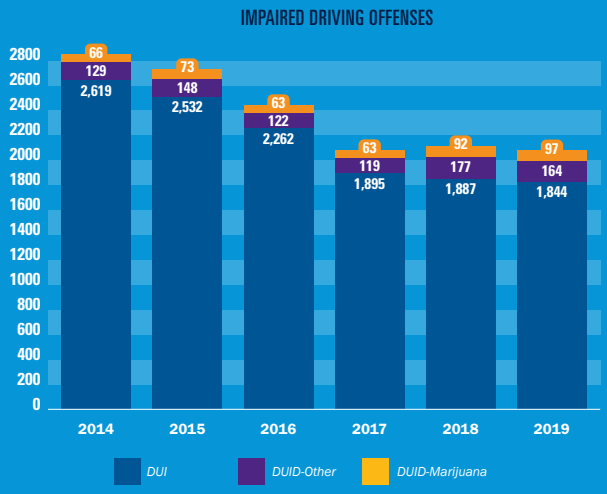
Definition: City and County of Denver arrest data include citations and bookings for violations of marijuana laws in State of Colorado statute and/or City of Denver municipal code. There may be multiple arrests/ citations per reported incident. A citation is a ticket to appear in court and an arrest 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

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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

HB 2/a
Page 1

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

HB 2/a
Page 13

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

SJC/SB 2
Page 1

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."


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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.

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?