



AGENDA

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 16, 2023
5:00 PM
COUNCIL CHAMBERS
CITY HALL
201 LINCOLN AVENUE

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF CONSENT AGENDA**
5. **PRESENTATIONS**
 - a. Narcan Presentation – The Science of Fentanyl and Opioid Overdose Recognition and Response (Bernie Lieving, lievinggroup@gmail.com)
 - b. Update on Affordable Housing Supports, Upcoming Projects, and Current Initiatives of the Santa Fe Civic Housing Authority (Ed Romero, Executive Director, edromero@sfcha.com)
6. **ACTION ITEMS: CONSENT**
 - a. Request for Approval of Minutes for the August 2, 2023 Quality of Life Committee Meeting (Loretta S. Olguin, Business Operations Manager: lsolguin@santafenm.gov, 505-955-6334)

- b. Request for Approval of Memorandum of Agreement (MOA) between the City of Santa Fe and The New Mexico Energy, Minerals, and Natural Resources Department's (EMNRD) Forestry Division to Establish a Collaborative Framework for Implementing Wildland Hazardous Fuels Reduction and Forest Health Projects on City Lands. This MOA Would Supersede and Terminate a Previous Joint Powers Agreement Between the City of Santa Fe and EMNRD (Share No. 000...12272). (Kyle Morgan, Emergency Management Specialist; klmorgan@santafenm.gov, 505-955-6704; Alan Hook, Water Resources Coordinator; aghook@santafenm.gov, 505-955-4205; and Nathan Millier, Wildland Superintendent; nfmiller@santafenm.gov, 505-955-3901)

Committee Review:

Finance Committee: 08/14/2023

Quality of Life Committee: 08/16/2023

Public Works and Utilities Committee: 08/28/2023

Governing Body: 08/30/2023

- c. Request for Approval of Memorandum of Understanding per Agreement #2023-0208-CSD/BT between Santa Fe County and the City of Santa Fe in the Total Amount of \$25,000 for Reimbursement of Funds Spent in Pursuit of Providing Library Services through the City's Southside Library Branch. (Margaret Neill, Library Division Director; mmneill@santafenm.gov)

Committee Review

Finance Committee: 08/14/2023

Quality of Life Committee: 08/16/2023

Governing Body: 08/30/2023

- d. Request for Approval to Enter into an Exclusive Negotiation Agreement between the City of Santa Fe and the Santa Fe Art Institute, for the Purpose of Performing Due Diligence Activities and Negotiating Terms for Land and Building Disposition and Redevelopment of the Midtown Visual Arts Center Pursuant to the City's Request for Proposal No. 23/17/P. (Lee Logston, Midtown Asset Development Manager: lrlogston@santafenm.gov, 505-955-6914; Rich Brown, Director, Community Development: rdbrown@santafenm.gov, 505-670-0559; Daniel Hernandez, Midtown Redevelopment Project Manager, Proyecto: daniel@proyecto.is)

Committee Review:

Finance Committee: 08/14/2023

Quality of Life Committee: 08/16/2023

Public Works & Utilities Committee: 08/28/2023

Governing Body: 08/30/2023

- e. CONSIDERATION OF A RESOLUTION 2023-__ (Councilor Jamie Cassutt, Councilor Amanda Chavez)

A Resolution Accepting a Municipal Arterial Program Cooperative Grant Identified as Control Number L500561 for the Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage, and Miscellaneous Improvements of the Henry Lynch Road Reconstruction Project. (Romella Glorioso-Moss, Capital Projects Manager, rsglorioso-moss@santafenm.gov, 505-955-6623)

Committee Review:

Governing Body (Introduced): 08/09/2023

Finance Committee: 08/14/2023

Quality of Life: 08/16/2023

Governing Body: 08/30/2023

- f. CONSIDERATION OF A RESOLUTION 2023-__ (Councilwoman Renee Villarreal and Councilor Chris Rivera)

A Resolution Reconvening the Community Health and Safety Task Force for a Single Meeting for the Purpose of Adopting the Task Force's Final Report and Recommendations. (Julie Sanchez, Youth and Family Division Director, jjsanchez@santafenm.gov, 505-955-6678)

Committee Review:

Governing Body: (Introduced) 08/09/2023

Quality of Life: 08/16/2023

Public Works: 08/28/2023

Finance Committee: 09/05/2023

Governing Body: 09/13/2023

- g. CONSIDERATION OF A RESOLUTION 2023-____. (Councilor Michael Garcia)

A Resolution Proposing a Ballot Question to be Submitted to the City's Voters During the November 7, 2023, Regular Local Election Regarding Amending the City's Charter to Limit the Mayor's Ability to Vote when there is a Tie. (Marci Eannarino, Manager of Legislation and Policy Innovation, maeannarino@santafenm.gov, 505-955-6518)

Consideración de la Resolución Número 2023-____. (Councilor Michael Garcia)

Una resolución que propone agregar una pregunta a la boleta electoral que se presentará a los votantes de la ciudad durante las elecciones locales ordinarias del 7 de noviembre de 2023 con respecto a la enmienda de la Carta Orgánica de la Ciudad o "City's Charter" para limitar la capacidad del alcalde de votar cuando hay un empate.

(Marci Eannarino, Manager of Legislation and Policy Innovation, maeannarino@santafenm.gov, 505-955-6518)

Committee Review:

Governing Body (Introduced): 08/09/2023

Finance Committee (Denied): 08/14/2023

Quality of Life Committee: 08/16/2023

Special Governing Body: 08/22/2023

- h. CONSIDERATION OF A RESOLUTION 2023-____. (Councilor Michael Garcia)

A Resolution Submitting a Ballot Question to the City's Voters During the November 7, 2023, Regular Local Election Regarding Amending the City's Charter to Regulate Adoption of the City's Budget and "Capital Program", Require Adoption of Ordinances Updating Financial Processes and Accounting Systems, Require Sufficient Staff to Facilitate Timely Completion of Independent Audits, and Consolidate those New Sections with Existing Sections of the Charter Regarding Finance Topics, Including Investments, Procurement, and Independent Audit Committee, in a New Article Called "Financial Management". (Marci Eannarino, Manager of Legislation and Policy Innovation, maeannarino@santafenm.gov, 505-955-6518)

Consideración de la Resolución Número 2023-____. (Councilor Michael Garcia)

Una resolución que propone agregar una pregunta a la boleta electoral

que se presentará a los votantes de la ciudad durante las elecciones locales ordinarias del 7 de noviembre de 2023 con respecto a la enmienda de la Carta Orgánica de la Ciudad o "City's Charter" para regular la adopción del presupuesto de la ciudad y del "programa capital", requerir la adopción de ordenanzas que actualicen los procesos financieros y los sistemas contables, requerir personal suficiente para facilitar la realización puntual de auditorías independientes, y consolidar esas nuevas secciones con las secciones existentes de la Carta Orgánica relativas a temas financieros, incluidas las inversiones, las adquisiciones y el comité de auditoría independiente, en un nuevo artículo denominado "Administración Financiera". (Marci Eannarino, Manager of Legislation and Policy Innovation, maeannarino@santafenm.gov, 505-955-6518)

Committee Review:

Finance Committee (Introduced): 08/14/2023

Quality of Life Committee: 08/16/2023

Special Governing Body: 08/22/2023

i. **CONSIDERATION OF A RESOLUTION 2023-____.** (Councilor Michael Garcia)

A Resolution Proposing Two Ballot Questions to be Submitted to the City's Voters During the November 7, 2023, Regular Local Election to Amend the City's Charter to Require the Governing Body to Establish an Office of Equity and Inclusion and a Human Rights Commission in Ordinance. (Marci Eannarino, Manager of Legislation and Policy Innovation, maeannarino@santafenm.gov, 505-955-6518)

Consideración de la Resolución Número 2023-____. (Councilor Michael Garcia)

Una resolución que propone agregar dos preguntas a la boleta electoral que se presentarán a los votantes de la ciudad durante las elecciones locales ordinarias del 7 de noviembre de 2023 para enmendar la Carta Orgánica de la Ciudad o "City's Charter" a fin de requerir que el Órgano de Gobierno establezca por ordenanza una Oficina de Equidad e Inclusión y una Comisión de Derechos Humanos. (Marci Eannarino, Manager of Legislation and Policy Innovation, maeannarino@santafenm.gov, 505-955-6518)

Committee Review

Finance Committee (Introduction): 08/14/2023

Quality of Life Committee (Removed from the Agenda): 08/16/2023
Special Governing Body: 08/22/2023

7. **MATTERS FROM STAFF**
8. **MATTERS FROM THE COMMITTEE**
9. **MATTERS FROM THE CHAIR**
10. **NEXT MEETING: Wednesday, September 6, 2023**
11. **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.



The Science of Fentanyl & Opioid Overdose Recognition and Response

BERNIE LIEVING, MSW

STATEWIDE OVERDOSE PREVENTION EDUCATION COORDINATOR

OFFICE OF SUBSTANCE ABUSE PREVENTION

Fentanyl

- Fentanyl is a short-acting, very potent, prescription opioid.
- Fentanyl is also illegally manufactured and has a very big presence in New Mexico's street drug market.
- Some fentanyl analogues, like carfentanil, are used in veterinary medicine, and are even more potent.

Misinformation about Fentanyl

- There is too much false and non-scientific information about fentanyl and overdose risk. A fentanyl overdose can only occur if a person is purposefully eating, smoking, snorting, or injecting the drug.
- Inhalation risk – None (Powdered fentanyl cannot be absorbed from the air).
- Incidental skin risk – None (Skin absorption requires a prescription patch).
- NARCAN WORKS on ALL fentanyl formulations – Rx and illegally made.
- No risk to rescuer attempting to revive someone from a fentanyl overdose.

Sources: American College of Medical Toxicology/American Academy of Clinical Toxicology, 2017, Steve Carroll, MD – Emory University School of Medicine, 2019.

Fentanyl in the Street Drug Market

- ▶ Major increase of IMF in the street drug market since Fall 2019.
- ▶ Largely counterfeit pills pressed to look like 30mg Oxycodone (“Blues, M-box 30s, little blue pills, etc.”)
- ▶ Statewide shift from heroin injection to fentanyl smoking.
- ▶ 136% increase in fentanyl-involved deaths from December of 2019 to December of 2020 (NMDOH).
- ▶ Top 5 substances involved in overdose death in 2020: methamphetamine, fentanyl, heroin, ethanol, cocaine (NMDOH).







Recent Overdose Death New Mexico

- In 2019, there were 637 deaths (30.4 per 100,000).
- In 2020, there were 843 deaths (39.7 per 100,000).
- 2021: 1,074 deaths. 52.8 per 100,000.
- U.S. death rate for 2021 is 32.4 per 100,000.

Narcan® (naloxone hydrochloride)

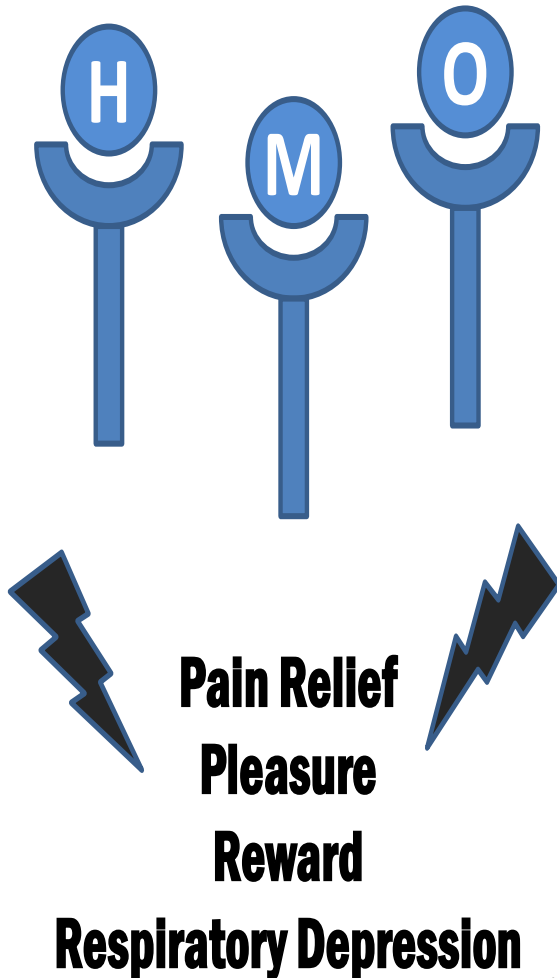
- Opioid antagonist – ONLY WORKS ON OPIOIDS.
- Narcan atomizer contains 4 mg in .1 ml of solution.
- Storage temperature, shelf life, etc. (naloxone is a VERY stable medicine).

Narcan® continued

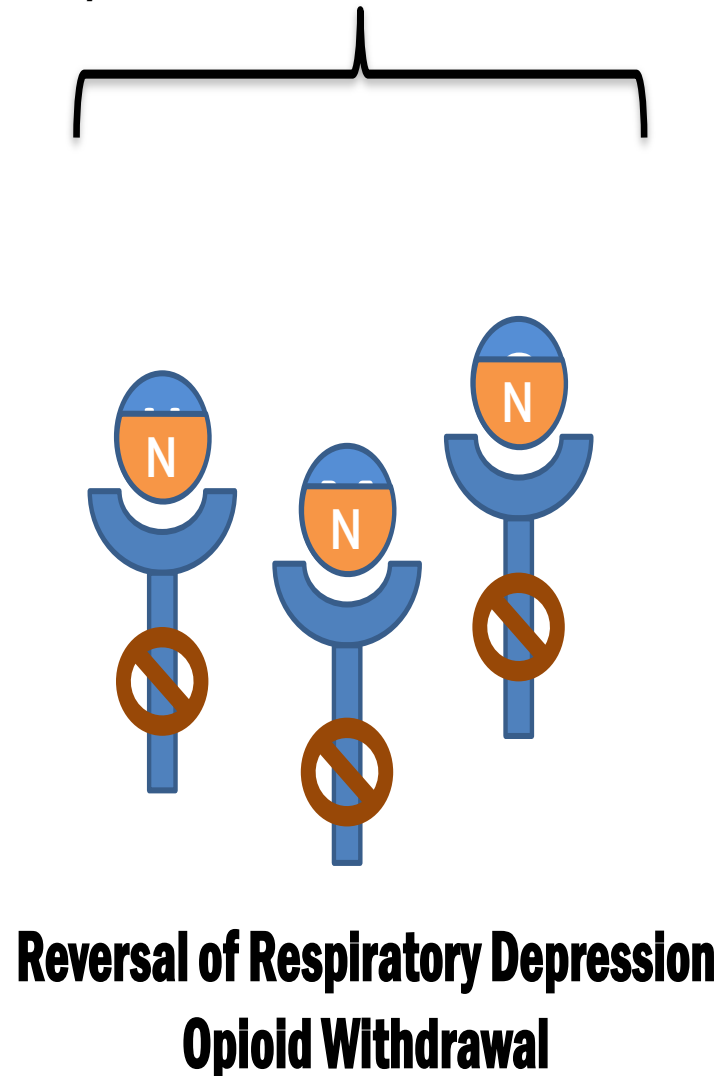
- Temporarily (30 to 90 minutes) displaces opioid to restore respiratory drive (does NOT remove opioids from the body).
- Safe, extremely effective, no “abuse” potential (fewer side effects than aspirin).
- If administered to a person NOT overdosing on an opioid, nothing will happen.
- All naloxone formulations are safe to give to people over the lifespan, and to someone who is pregnant.

Narcan () in the Brain

*opioid receptors activated
by heroin and prescription opioids*



opioids broken down and excreted



Signs of an Opioid Overdose

- Decreased respirations or not breathing at all (A person normally takes a breath 12 – 20 times per minute, or 1 breath every 5 seconds). If still breathing, snoring or gurgling sound.
- Blue or purplish skin (especially around lips and nail beds).
- Unconscious, unresponsive (won't wake up).

Responding to an Opioid Overdose (if not doing rescue breathing for any reason)

- Check to see if person is breathing and conscious (minimal contact to check for breathing is not considered high risk for COVID-19 transmission). *Rescue breathing (mouth to mouth), is a very important part of the response. A person overdosing on an opioid is craving oxygen, not Narcan.
- Call 911 and tell operator someone is unconscious/not breathing.
- Roll the person on their side and give the first dose of Narcan.
- If after 2 minutes the person doesn't wake up, give a second dose of Narcan.
- If you do rescue breathing, here's how to do it (Demonstration).
- CPR discussion

What To Do When the Person Wakes Up

- Give the person some space. Speak to them in a calm and reassuring manner.
- If the person is on their back, roll them over onto their side into the recovery position.
- If applicable, encourage the person to wait for EMS to get checked and transported to the hospital, but do not put yourself at risk trying to keep the person on the scene until medical care arrives.

Overdose Response in 5 Steps

- ▶ Step 1 : Confirm unconsciousness and not breathing enough, or not breathing at all.
- ▶ Step 2: Call 911.
- ▶ Step 3: Roll person on their side and give first dose of Narcan.
- ▶ Step 4: If no response in 2 minutes, give second dose of Narcan.
- ▶ Step 5: If the person doesn't wake up after Step 4, give more Narcan (if you have it) every 2 minutes until medical care arrives.

If you are CPR-certified and compressions are indicated, please still give Narcan every 2 minutes.



Questions, comments, concerns?

CONTACT INFO:

505-270-5943

LIEVINGGROUP@GMAIL.COM



Update on the Santa Fe Civic Housing Authority (SFCHA)

Current initiatives, operations and upcoming projects

Ed Romero, Executive Director

Quality of Life Committee

August 16, 2023

Scope of the SFCHA

- Primary housing authority for Santa Fe but also covers northern NM (Española, Bernalillo...) NOT part of City government
- 491 units of HUD Project based rental assistance (PBRA) – 459 of which are also LIHTC units, and 145 Low Income Housing Tax Credit (LIHTC)
- Of the PBRA there are a total of 359 units for seniors and 132 units for families
- 670 housing choice vouchers in Santa Fe
- 300 on waiting lists for unit and 300 on list for HCV (average wait: 18 – 24 months)
- 28 units of public housing
- Owns development subsidiary – Santa Fe Community Living, LLC



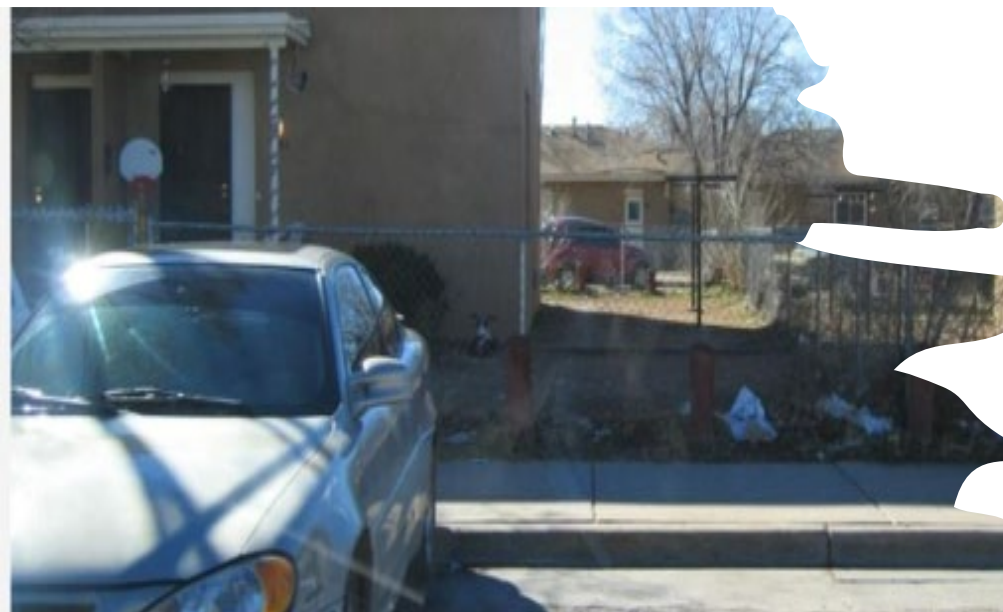
History of Public Housing

Created as part of New Deal in 1937 as a job creation initiative, expanded under the Housing Act of 1949, and reformed by the Fair Housing Act of 1968 (made segregation illegal)

In the mid-1970s, government support for public housing began to contract, leading to underfunding and austerity and ultimately to the decline of housing quality

To compensate, HUD created the Rental Assistance Demonstration (RAD) program to allow HAs to refinance their properties using expanded subsidy funding

SFCHA was the first HA to use RAD to redevelop its inventory, transforming outdated, unsafe housing built in the 1960s and 1970s into beautifully designed, energy efficient, and accessible homes with a range of community amenities

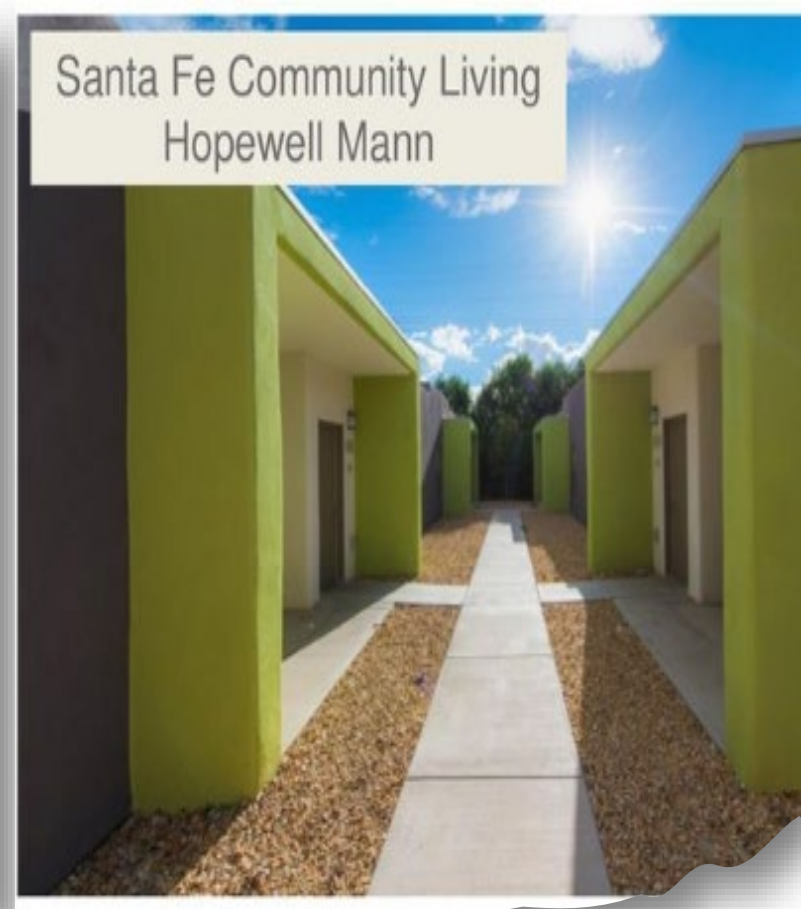


Before RAD

Villa Alegre



Santa Fe Community Living
Hopewell Mann



After RAD (+ other subsidy including LIHTC, Section 202, Section 811)

Partnership with the City

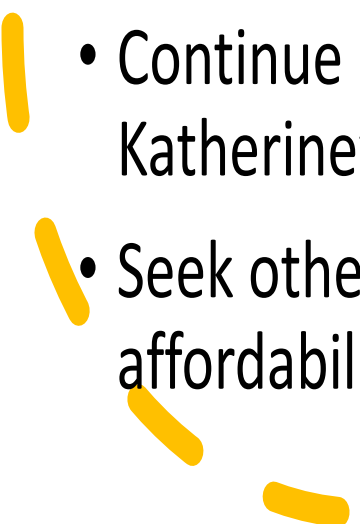


La Resolana Apartments, under construction, 2021

- Some of the property with housing re-developed by the Housing Authority is owned by the City (W. Alameda, Alta Vista, Luisa)
- AHTF and CDBG regularly support the Housing Authority's creation of new units and rehabilitation/preservation of existing units.
- SFCHA has bought property with expiring and/or vulnerable affordability terms, preserving approx. 250 homes at 4 sites (Paseo del Sol Apartments, Siringo Apartments, Villa Consuelo Apartments, and Country Club)
- The City has provided \$1,140,000 toward the rehabilitation of these properties, helping to improve quality of life, energy efficiency and the long term financial viability of the sites



Up and Coming Projects

- Apply for tax credits to fund the redevelopment of Country Club Apartments (60 homes)
 - Apply for tax credits to develop 60 subsidized rental units and 40 workforce rental units at Ocate Rd
 - Begin master planning process for site on Rufina Road (48 acres)
 - Continue developing partnerships and securing entitlements for St Katherine's property
 - Seek other subsidized properties for sale to ensure continued affordability
- 



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING

1. CALL TO ORDER

The meeting of the Quality of Life Committee was called to order by Councilor Jamie Cassutt, Chair, at 5:05 pm on Wednesday, August 2, 2023 in the Council Chambers at City Hall.

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

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

For: Councilor Chavez, Councilor Garcia, Councilor Cassutt, Councilor Villarreal

Against: None

Abstain: None

2. ROLL CALL

Members Present:

Councilor Amanda Chavez
Councilor Lee Garcia
Councilor Michael Garcia
Councilor Jamie Cassutt
Councilor Renee Villarreal

Members Excused:

None

Others Attending:

Kyra Ochoa, Community Services Department Director
Loretta Olguin, Clerk
Elizabeth Martin, Clerk
Rich Brown, Attendee

3. APPROVAL OF AGENDA



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING

MOTION: Councilor Renee Villarreal moved, seconded by Councilor Michael Garcia, to approve the agenda as presented.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Jamie Cassutt, Councilor Renee Villarreal

Against: None

4. APPROVAL OF CONSENT AGENDA

MOTION: Councilor Renee Villarreal moved, seconded by Councilor Amanda Chavez, to approve the consent agenda as amended.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Jamie Cassutt, Councilor Renee Villarreal

Against: None

consent agenda item H was removed by Councilor Lee Garcia, item I was removed by Chair Cassutt, item J was removed by Chair Cassutt, item K was removed by Chair Cassutt, item L was removed by Chair Cassutt and Councilor Villarreal, item M was removed by Chair Cassutt.

5. PRESENTATION



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING

- a. Update on the El Lucero Crossing Economic Feasibility Study and Planning Efforts. (Noah Berke, Wilson & Company Planning Manager: noah.berke@wilsonco.com) (Terry Lease, Asset Development Manager, Office of Economic Development: tjlease@santafenm.gov, 505-629-2206)
- b. Update on the Lamplighter Inn Motel Conversion Project (Jeff Curry, Director of Development, JL Gray Co.: Jeff@jlgray.com; Cody Minnich, Project Manager, Office of Affordable Housing: cjminnich@santafenm.gov)

6. ACTION ITEMS: CONSENT

- a. Request for Approval of Minutes for the July 19, 2023 Quality of Life Committee Meeting (Loretta Olguin, Business Operations Manager: Isolguin@santafenm.gov, 505-955-6334)

MOTION: Councilor Renee Villarreal moved, seconded by Councilor Amanda Chavez, to approve the minutes as presented.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Jamie Cassutt, Councilor Renee Villarreal

Against: None

- b. Request for the Approval of Lease Agreement between the City of Santa Fe and the Solace Crisis Treatment Center in the Amount of \$78,852 for the Use of Office Space for the Santa Fe Police Department's Special Victims Unit Staff (Ben Valdez, Deputy Police Chief; bpvaldez@santafenm.gov).

Committee Review:
Finance Committee: 07/31/2023



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING

Quality of Life Committee: 08/02/2023
Governing Body Committee: 08/09/2023

MOTION: Councilor Renee Villarreal moved, seconded by Councilor Amanda Chavez, to approve the lease as presented.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Jamie Cassutt, Councilor Renee Villarreal

Against: None



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING

- c. Request for Approval of Good and Services Contract with CamNet through June 30, 2026 in the Total Amount of \$461,940.70 Including NMGRT for the Purchase and Installation of Security Equipment at the Santa Fe Regional Airport. (James Garduno, Project Administrator, jdgarduno@santafenm.gov; James Harris, Airport Manager, jcharris@santafenm.gov)

Committee Review:

Finance: 07/31/2023

Quality of Life: 08/02/2023

Governing Body: 08/09/2023

MOTION: Councilor Renee Villarreal moved, seconded by Councilor Amanda Chavez, to approve the contract as presented.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Jamie Cassutt, Councilor Renee Villarreal

Against: None

- d. Request for Approval of Budget Adjustment Resolution (BAR) for FY24 in the Amount of \$300,000 for the Planning and Land Use Department Budget, in Order for the City's Internal Budget to Match what is Available in the City's Third-Party Plan Review Contract with SAFEbuilt, LLC. (Thomas M. Graham, Assistant Director, Planning and Land Use Department – Development Branch, tmgraham@santafenm.gov)

Committee Review:

Finance Committee: 07/31/2023

Quality of Life Committee: 08/02/2023

Governing Body: 08/09/2023

MOTION: Councilor Renee Villarreal moved, seconded by Councilor Amanda Chavez, to approve the budget adjustment resolution



MINUTES

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(BAR) as presented.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Jamie Cassutt, Councilor Renee Villarreal

Against: None

- e. Request for Approval of an Agreement of Sale to Purchase New Mexico State Game Commission Property located at 1085 Richards Avenue in Santa Fe for the Purchase Price of \$2,100,000. (Alexandra Ladd, Director, Office of Affordable Housing: agladd@santafenm.gov, 505-955-6346; Terry Lease, Asset Development Manager: tjlease@santafenm.gov, 505-629-2206)

Committee Review:

Finance Committee: 07/31/2023

Quality of Life Committee: 08/2/2023

Public Works & Utilities Committee: 08/07/2023

Governing Body: 08/09/2023

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

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

For: None

Against: None

- f. CONSIDERATION OF A BILL 2023-22 (Councilor Chris Rivera, Councilor Carol Romero-Wirth, Councilor Jamie Cassutt, Councilor Renee Villarreal)
A Bill Amending SFCC 1987, Section 12-3.9 to Ban the Sale and Use of Certain Fireworks During Severe Drought Conditions. (Brian Moya, Fire



MINUTES

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Chief, bjmoya@santafenm.gov, 505-955-3111)

Committee Review:

Governing Body (Introduction): 07/12/2023

Governing Body (Public Comment): 07/26/2023

Quality of Life Committee: 08/02/2023

Public Works and Utilities Committee: 08/07/2023

Governing Body (Public Hearing): 08/30/2023

MOTION: Councilor Renee Villarreal moved, seconded by Councilor Amanda Chavez, to approve the bill as presented.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Jamie Cassutt, Councilor Renee Villarreal

Against: None

- g. CONSIDERATION OF BILL NO. 2023-24. (Councilor Lindell, Councilor Cassutt and Councilor Michael Garcia)
A Bill Amending SFCC 1987, Section 23-5.1 to Include a Definition for Unicycles; Amending the Uniform Traffic Ordinance (UTO), Exhibit A to Chapter 24 By Creating a New Section 12-1-86.5 to Add a Definition for "Unicycle" and "Electric Unicycle, Amending Section 12-1-40 to Exclude Electric Unicycles from the Definition of Motor Vehicles, Amending Section 12-1-88 to Include Electric Unicycles in the Definition of Vehicle, and Amending Article 8, Sections 12-8-1 through 12-8-16 and Section 12-10-3.1 to Apply the Rules of Operation of Bicycles to Unicycles to the Extent Feasible and to Prohibit Anyone Under the Age of Sixteen from Riding a Class Two Electric Unicycle. (Romella Glorioso-Moss, Capital Projects Manager, rsglorioso-moss@santafenm.gov, 505-955-6623)

Committee Review:

Governing Body (Introduction): 07/12/2023

Bicycle and Pedestrian Advisory Committee: 07/13/23

Governing Body (Public Comment): 07/26/2023

Quality of Life Committee: 08/2/2023

Public Works and Utilities Committee: 08/07/2023



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Governing Body (Public Hearing): 08/30/2023

MOTION: Councilor Renee Villarreal moved, seconded by Councilor Amanda Chavez, to approve the bill as presented.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Jamie Cassutt, Councilor Renee Villarreal

Against: None

- h. [CONSIDERATION OF A RESOLUTION 2023-___ \(Councilor Jamie Cassutt and Councilwoman Renee Villarreal\)](#)
[A Resolution Proposing a Ballot Question to be Submitted to the City of Santa Fe's Voters During the November 7, 2023, Regular Local Election Regarding Approval of the City Ordinance Establishing a High-End Excise Tax for Affordable Housing. \(Erin McSherry, City Attorney, \[ekmcsberry@santafenm.gov\]\(mailto:ekmcsberry@santafenm.gov\), 505-955-6512\)](#)

Committee Review:

Governing Body: (Introduction) 07/26/2023)

Finance Committee: 07/31/2023

Quality of Life: 08/02/2023

Governing Body : 08/09/2023 (POSTPONED TO THE SPECIAL GOVERNING BODY MEETING FOR BALLOT INITIATIVES TO BE HELD ON TUESDAY, AUGUST 22, 2023 AT THE SANTA FE COMMUNITY CONVENTION CENTER AT 5:00 PM)

Governing Body: 08/22/2023

MOTION: Councilor Renee Villarreal moved, seconded by Councilor Michael Garcia, to approve the resolution as presented.

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



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For: Councilor Amanda Chavez, Councilor Michael Garcia,
Councilor Jamie Cassutt, Councilor Renee Villarreal

Against: Councilor Lee Garcia

MOTION: moved, seconded by , to approve the resolution as presented.

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

For: None

Against: None

- i. [CONSIDERATION OF A RESOLUTION 2023-___](#) (Councilor Chris Rivera, Councilor Michael Garcia, Councilor Lee Garcia and Councilwoman Renee Villarreal)
A Resolution Proposing a Ballot Question to be Submitted to the City of Santa Fe's Voters During the November 7, 2023 Regular Local Election Regarding Amending the City's Charter to Include a Provision Establishing an Independent Office of Inspector General for the City of Santa Fe. (Marci Eannarino, Manager of Legislation and Policy Innovation , maeannarino@santafenm.gov, 505-955-6518)

Committee Review:

Governing Body: (Introduction) 07/26/2023

Finance Committee: 07/31/2023

Quality of Life Committee: 08/02/2023

Governing Body : 08/09/2023 (POSTPONED TO THE SPECIAL GOVERNING BODY MEETING FOR BALLOT INITIATIVES TO BE HELD ON TUESDAY, AUGUST 22, 2023 AT THE SANTA FE COMMUNITY CONVENTION CENTER AT 5:00 PM)

Governing Body: 08/22/2023

MOTION: Councilor Michael Garcia moved, seconded by Councilor Renee Villarreal, to approve the resolution as presented.



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Renee Villarreal

Against: Councilor Jamie Cassutt

- j. **CONSIDERATION OF A RESOLUTION 2023-___** (Councilor Michael Garcia, Councilwoman Renee Villarreal)
A Resolution Proposing a Ballot Question to Be Submitted to the City's Voters During the November 7, 2023 Regular Local Election Regarding Amending the City's Charter to Reduce the Signature Requirements for Referenda and Initiatives From 33.3 Percent to 15 Percent, Provide That the Denominator Used to Calculate the Percentages is the Total Number of Voters Who Voted In the Most Recent Election That Included the Election of the Office of the Mayor, and Make Appropriate Technical Changes to Sections 3.01, 3.02 And 3.03, Consistent With Ordinance No. 2018-24 Regarding the City's Adoption Of The Local Election Act. (Marci Eannarino, Manager of Legislation and Policy Innovation, maeannarino@santafenm.gov, 505-955-6518)

Committee Review:

Governing Body: (Introduction) 07/26/2023

Quality of Life: 08/02/2023

Governing Body : 08/09/2023 (POSTPONED TO THE SPECIAL GOVERNING BODY MEETING FOR BALLOT INITIATIVES TO BE HELD ON TUESDAY, AUGUST 22, 2023 AT THE SANTA FE COMMUNITY CONVENTION CENTER AT 5:00 PM)

Governing Body: 08/22/2023

MOTION: Councilor Michael Garcia moved, seconded by Councilor Lee Garcia, to approve the resolution as presented.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Jamie Cassutt, Councilor Renee



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING

Villarreal

Against: None

- k. **CONSIDERATION OF A RESOLUTION 2023-___** (Councilor Michael Garcia and Councilor Chris Rivera)
A Resolution Proposing a Ballot Question to Be Submitted to the City's Voters During the November 7, 2023, Regular Local Election Regarding Amending the City's Charter to Include a Provision Stating That the Governing Body, Commissions, and Boards Must Adopt Procedural Rules Stating That They Must Adhere to Established Principles of Procedural Due Process and Fundamental Fairness When Functioning In a Quasi-Judicial Role. (Marci Eannarino, Manager of Legislation and Policy Innovation, maeannarino@santafenm.gov, 505-955-6518)

Committee Review:

Governing Body: (Introduction) 07/26/2023

Quality of Life: 08/02/2023

Governing Body : 08/09/2023 (POSTPONED TO THE SPECIAL GOVERNING BODY MEETING FOR BALLOT INITIATIVES TO BE HELD ON TUESDAY, AUGUST 22, 2023 AT THE SANTA FE COMMUNITY CONVENTION CENTER AT 5:00 PM)

Governing Body: 08/22/2023

MOTION: Councilor Michael Garcia moved, seconded by Councilor Lee Garcia, to approve the resolution as presented.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia

Against: Councilor Jamie Cassutt

- l. **CONSIDERATION OF BILL NO. 2023-20. ADOPTION OF ORDINANCE NO. 2023-___.** (Mayor Webber, Councilor Cassutt, Councilor Romero-Wirth and Councilor M. Garcia)



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING

A Bill Relating to Metropolitan Redevelopment; Deleting the Content of Section 7-2 Regarding “Urban Renewal”, Repealed by State Law in 2008, and Replacing it with the City’s Metropolitan Redevelopment Code, Sections 6-13 and 6-14, Amended to be Consistent with State Law, Delete Language Specific to a Business Capitol District, Limit Metropolitan Redevelopment Commission Leasing Authority to that Specified in a Particular Metropolitan Development Plan, and Specify Qualifications for Metropolitan Redevelopment Commissioners (Rich Brown, rdbrown@santafenm.gov, 505-955-6625, Marcos Martinez, mdmartinez, 505-955-6502)

Committee Review:

Governing Body (Introduction): 06/14/2023
Governing Body (Public Comment): 06/28/2023
Public Works and Utilities Committee: 07/10/2023
Finance Committee: 07/17/2023
Quality of Life Committee: 07/19/2023
Governing Body (Public Hearing) (Postponed to the 08/08/2023 Regular Governing Body Meeting): 07/26/2023
Finance Committee: 07/31/2023
Quality of Life Committee: 08/02/2023
Governing Body (Public Hearing): 08/09/2023

MOTION: Councilor Renee Villarreal moved, seconded by Councilor Michael Garcia, to approve the bill as amended.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor Michael Garcia, Councilor Jamie Cassutt, Councilor Renee Villarreal

Against: None

m. **CONSIDERATION OF RESOLUTION 2023-__** (Councilor Michael Garcia, Councilwoman Renee Villarreal)

A Resolution Proposing a Ballot Question to be Submitted to the City’s Voters During the November 7, 2023, Regular Local Election Regarding Amending Article X of the City’s Charter to Specify the Santa Fe Municipal Charter Commission’s Appointment, Terms, and Functions.



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING

(Marci Eannarino, Manager of Legislation and Policy Innovation,
maeannarino@santafenm.gov, 505-955-6518)

Committee Review

Finance Committee: (Introduced) 07/31/2023

Quality of Life: 08/02/2023

Governing Body : 08/09/2023 (POSTPONED TO THE SPECIAL
GOVERNING BODY MEETING FOR BALLOT INITIATIVES TO BE
HELD ON TUESDAY, AUGUST 22, 2023 AT THE SANTA FE
COMMUNITY CONVENTION CENTER AT 5:00 PM)

Governing Body: 08/22/2023

MOTION: Councilor Michael Garcia moved, seconded by Councilor
Renee Villarreal, to approve the resolution as presented.

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

For: Councilor Amanda Chavez, Councilor Lee Garcia, Councilor
Michael Garcia, Councilor Renee Villarreal

Against: Councilor Jamie Cassutt

7. **MATTERS FROM STAFF**
8. **MATTERS FROM THE COMMITTEE**
9. **MATTERS FROM THE CHAIR**
10. **NEXT MEETING: August 16 2023**
11. **ADJOURN**

There being no further business before the Committee the meeting adjourned at 6:54 pm.

MOTION: Councilor Villarreal moved, seconded by Councilor Chavez, to approve



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING

the as presented.

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

For: Councilor Chavez, Councilor Garcia, Councilor Cassutt, Councilor Villarreal

Against: None

Abstain: None

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

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

For: Councilor Chavez, Councilor Garcia, Councilor Cassutt, Councilor Villarreal

Against: Councilor Garcia

Abstain: None

MOTION: Councilor Garcia moved, seconded by Councilor Garcia, to approve the as presented.

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

For: Councilor Chavez, Councilor Garcia

Against: Councilor Cassutt

Abstain: Councilor Villarreal

Stenographer/Liaison

Chair



City of Santa Fe

MINUTES

**REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
AUGUST 02, 2023
5:00 PM
VIRTUAL MEETING**




City of Santa Fe New Mexico




Memorandum



Date: July 7, 2023

To: Mayor Alan Webber and City Council
Finance, Quality of Life, and Public Works and Utilities Committees

Via: Emily Oster, Finance Department Director
Travis Dutton-Leyda, Chief Procurement Officer
Kyra Ochoa, Community Health and Safety Department Director
John Dupis, Public Utilities Department Director
Brian Moya, Fire Chief
Brian Williams, Emergency Management Director 

From: Kyle Morgan, Emergency Management Specialist 
Alan Hook, Water Resources Coordinator & Santa Fe Municipal Watershed
Program Manager 
Nathan Miller, Wildland Superintendent 

ITEM AND ISSUE:

Request for approval of a Memorandum of Agreement (MOA) between the City of Santa Fe and the New Mexico Energy, Minerals, and Natural Resources Department's (EMNRD) Forestry Division establishing a collaborative framework for implementing wildland hazardous fuels reduction and forest health projects on City lands. This MOA would supersede and ~~terminate~~ a previous Joint Powers Agreement between the City of Santa Fe and EMNRD (Share No. 000 ... 12272). (Kyle Morgan, Emergency Management Specialist; klmorgan@santafenm.gov, 505-955-6704; Alan Hook, Water Resources Coordinator; aghook@santafenm.gov, 505-955-4205; and Nathan Miller, Wildland Superintendent; nfmiller@santafenm.gov, 505-955-3901)

BACKGROUND AND SUMMARY:

The State of New Mexico, Energy, Minerals and Natural Resources Department, Forestry Division routinely receives funds from the United States Department of Agriculture (USDA) to address the threat of wildland fire and enhance forest and watershed health throughout the state.

Under this MOA, as natural resource enhancement needs are identified, the City of Santa Fe will consult with the Forestry Division to develop project-specific work plans with the work performed funded by the State of New Mexico. This agreement streamlines administrative processes and enables the implementation of approved forestry work through a single program.

The framework outlined by this agreement allows for implementing a large variety of projects related to improving forest health and reducing hazardous wildland fuels, including improving, restoring, or replanting watershed areas or forests on public and private lands, developing defensible space around utility infrastructure, establishing fuel breaks along common boundaries, and assisting with thinning individual parcels.

EMNRD will provide funding, access to contracted resources, and overall guidance on goals and objectives for forest insect and disease and forest health program activities on state and private lands in New Mexico. Additionally, EMNRD will inspect project implementation and ensure compliance with each Project Work Plan.

Fire Department, Water Division, and Emergency Management staff are currently coordinating for two proposed work plans, should this agreement be approved. An initial project aims to protect water utility infrastructure within the wilderness urban interface through targeted fuels reduction, the second would be a larger fuels reduction project in the Talaya Hill Open Space.

PROCUREMENT METHOD:

Intergovernmental Memorandum of Agreement, no procurement of services.

CONTRACT NUMBER:

The FY24 Munis contract number is 3204195

The MOA will continue indefinitely unless either party chooses to terminate it.

FUNDING SOURCE:

Section 3 (page 2) of the attached MOA outlines financial arrangements for the projects. Three options are presented under this agreement and outlined below. At this time, the second arrangement, EMNRD directly paying city-selected contractors, is what will be utilized.

1. The City may conduct the work using its employees or hire a contractor, and the EMNRD will reimburse the Entity for the incurred costs.
2. EMNRD may directly pay a contractor approved by the City of Santa Fe.
3. EMNRD also has the option to perform the work using its own employees or Inmate Work Camp crews if agreed to by the City.

ACTION REQUESTED:

The City of Santa Fe Office of Emergency Management, Water Division, and Wildland Fire Division respectfully request the approval of this Memorandum of Agreement.

ATTACHMENTS:

1. Proposed MOA between the State of New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division, and the City of Santa Fe.
2. Joint Powers Agreement between EMNRD and the City of Santa Fe that will be superseded by this agreement.

CC: Jesse Roach, Water Division Director

Signature: *Kyle Morgan*

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

Signature: *Nathan Miller*

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

Signature: *Alan Hook*

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

Signature: *Brian Williams*

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



CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: New Mexico Energy, Minerals, and Natural Resources, Forestry Division

Procurement Title: MOA Between The City of Santa Fe and State of NM EMNRD, Forestry Division

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 Emergency Management Staff Name Kyle Morgan

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES N/A

- | | | |
|-------------------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Approved Procurement Checklist (by Purchasing) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Memo addressed to City Manager (under 60K) Committees/City Council (over 60K) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | State Price Agreement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | RFP |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Evaluation Committee Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | ITB |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Bib Tab |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Quotes (3 valid current quotes) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Cooperative Agreement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Sole Source Request and Determination Form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contractors Exempt Letter |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Purchasing Officers approval for exempt procurement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | BAR |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | FIR |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Executed Contract, Agreement or Amendment |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Current Business Registration and CRS numbers on contract or agreement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Summary of Contracts and Agreements form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Certificate of Insurance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | All documentation presented to Committees |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Other: |

Kyle Morgan Emergency Management Specialist 06.05.2023

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

[Signature] Chief Procurement Officer Jul 26, 2023

Purchasing Officer (attesting that all information is reviewed) Title Date

ITT Representative (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

Summary of Contracts, Agreements, Amendments & Leases

All fields to be completed by department:

1. Munis Contract: 3204195 Procurement # (RFP/ITB If any):

Contractor: New Mexico Energy, Minerals, and Natural Resources, Forestry Division

Description: MOA for implementing hazardous wildland fuel reduction and related efforts on city lands with funding from the State of New Mexico.

Contract Agreement Lease / Rent Amendment

Term Start Date: 08/01/2023 Term End Date: 08/01/2033

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)

New intergovernmental memorandum of agreement. This MOA supersedes and terminates a previous JPA with EMNRD (Share No. 000 ... 12272).

3. **Procurement History:** JPA Item #11-0068 dated March 28, 2011

 Jul 26, 2023
Purchasing Officer Review: _____ Date: _____
Comment & Exceptions: 13-1-98A.

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

Andy Hopkins Jul 26, 2023
Andy Hopkins (Jul 26, 2023 14:44 MDT) Date: _____
Budget Officer Approval: _____
Comment & Exceptions: _____

Staff Contact who completed this form: Kyle Morgan Phone # 505-629-2539

Email: klmorgan@santafenm.gov

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

ITT Representative (attesting that all information is reviewed) Title Date

**MEMORANDUM OF AGREEMENT BETWEEN THE
STATE OF NEW MEXICO, ENERGY, MINERALS AND NATURAL RESOURCES
DEPARTMENT,
FORESTRY DIVISION AND
THE CITY OF SANTA FE**

THIS MEMORANDUM OF AGREEMENT (MOA) is made and entered into by the State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD), Forestry Division (Division) and the City of Santa Fe (Entity). This MOA supersedes and terminates the Joint Powers Agreement between the Energy, Minerals, and Natural Resources Department and the City of Santa Fe, dated March 7, 2011, SHARE No. 000 ... 12272 (EMNRD No. 11-521-2301-0051).

WHEREAS, EMNRD from time to time receives funds from the State of New Mexico (State) and United States Department of Agriculture (USDA) or other federal agencies to mitigate the threat of wildland fire and improve forest and watershed health; and

WHEREAS, EMNRD and the Entity desire to enter this MOA for administrative efficiency so that the projects detailed in individual approved Project Work Plans can be carried out through a single program,

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES THAT THE METHOD BY WHICH THIS PURPOSE SHALL BE ACCOMPLISHED IS AS FOLLOWS:

1. Both parties agree as follows:

A. Wildland Urban Interface (WUI) and Hazardous Fuels Reduction (HAZ) Grant Programs projects, shared stewardship projects, or other fuels reduction projects or forest health projects conducted under this MOA shall involve work that emphasizes improving, restoring, or replanting watershed areas or forests on public and private land, the development of defensible space for individual homeowners, development of fuel breaks along common boundaries between private and public land, and assisting with thinning of individual lots and subdivision groups. There may be multiple projects conducted as part of this MOA. Each project to be conducted under this MOA shall follow the attached Project Work Plan (Exhibit A), as may be amended from time to time. If the parties desire to amend the work plan, the parties agree that the City Manager can approve an amended work plan, provided that such a work plan is consistent with the terms of this MOA.

B. The Entity, or if work is performed pursuant to Section 3.A.2) or 3) the Division or its contractor, shall perform no work until the Project Work Plan is in place and the Division issues in writing a Notice to Proceed.

2. The Entity shall:

A. Consult with the Division and request the work to be performed based upon the needs of the Entity to improve natural resources on the Entity's lands through the performance of natural resource restoration. Such work shall be performed in those areas that have the greatest impact on mitigating the threat of wildfires and improving forest and watershed health. Entity shall coordinate its projects with activities being conducted by other entities on adjacent or nearby lands where feasible.

B. Prepare a Proposed Project Work Plan (Exhibit A) for each individual project for consideration by the Division or prepare the Project Work Plan with the Division. The Entity and the Division shall sign a Project Work Plan for each proposed project prior to the Entity, or the Division or its contractor, commencing work on the project.

C. If the Entity will conduct the work pursuant to Section 3.A.1), provide a written activity report of work completed as set forth in the Project Work Plan.

D. If the Entity will conduct the work pursuant to Section 3.A.1), provide the Division with invoices for payment supported by detailed certified statements of account documenting the services rendered for each payment as necessary but no more frequently than on a weekly basis.

3. EMNRD shall:

A. Either:

1) reimburse the Entity out of federal grant or state funds for all reimbursable costs the Entity incurs to conduct an approved project, incurred under this MOA for materials and labor in an amount not to exceed the limit set in the approved Project Work Plan for projects where the Entity conducts the work using Entity employees or pays a contractor who is under contract to the Entity;

2) pay directly to a contractor, under contract to the Division and approved by the Entity for all costs incurred for an approved project under this MOA for materials and labor in an amount not to exceed the limit set in the approved Project Work Plan; or

3) perform the work to conduct an approved project itself using Division employees or Inmate Work Camp crews and retain funds.

If the Division and the Entity agree to use option 2 or 3, the Division shall obtain the Entity's prior written approval to conduct the project by securing the Entity's approval signature on the Project Work Plan.

The Division shall indicate the financial mechanism chosen for project (*i.e.*

reimbursement, transfer of funds, or direct payment) in the approved Project Work Plan. Additionally, if the Entity conducts the project pursuant to Section 3.A.1), reimbursement is contingent upon the Entity expending matching funds, if any, as set forth in the approved Project Work Plan. The matching amount shall be determined by the Division and documented in the Project Work Plan.

B. If the Entity conducts the project pursuant to Section 3.A.1), make all disbursements for costs by voucher supported by approved purchase order or equivalent document and invoice from the Entity evidencing the propriety of each payment. Amounts charged for personal services will be based on payrolls maintained by the Entity and supported by time and attendance sheets.

C. Provide overall guidance on goals and objectives for forest insect and disease and forest health program activities on state and private lands in New Mexico.

D. Inspect project implementation and certify work as being in compliance with each Project Work Plan.

4. **Term:** This MOA becomes effective on EMNRD's signature and shall continue indefinitely unless earlier terminated pursuant to Section 5, Termination, or Section 6, Appropriations, below.

5. **Termination:** Either party may terminate this MOA upon written notice delivered to the other at least 10 days prior to the intended termination date. By such termination, neither party may nullify or avoid any obligation required to have been performed prior to termination.

6. **Appropriations:** The terms of this MOA are contingent upon the New Mexico State Legislature, USDA, the City of Santa Fe, or other federal agency granting sufficient appropriation and authorization for the performance of this MOA. If sufficient appropriation or authorization is not granted, either party may terminate this MOA, or suspend performance pending approval of sufficient appropriation or authorization, upon written notice from one to the other. Either party's decision as to whether sufficient appropriations are available shall be final, binding, and accepted by the other.

7. **Subcontracting:** The Entity may subcontract the portions of the work as specified in approved Project Work Plans. When federal funds are used:

A. the Entity shall comply with 2 C.F.R. 200.318 through 200.326 for procurement of property or services conducted pursuant to this MOA; and

B. any subcontract shall include all provisions necessary to allow the Entity to meet its obligations and requirements under this MOA and all provisions required by law.

8. **Strict Accountability for Receipts and Disbursements:**

A. The Entity shall be strictly accountable for receipts and disbursements relating hereto and shall make all relevant financial records available to EMNRD, the Department of Finance and Administration, the New Mexico State Auditor, and USDA or other federal agency upon request, and shall maintain all such records for three years after the funding for each individual approved Project Work Plan has expired or has been terminated.

B. If the Entity receives \$750,000 or more in federal funding from all sources in the aggregate in a fiscal year, the Entity's financial records involving services and procurement under this MOA shall be audited annually pursuant to all federal, state and local government audit requirements, and in accordance with the Single Audit Act Amendments of 1996, 2 C.F.R. 200, Subpart F – Audit Requirements, OMB Circular Compliance Supplement and Government Auditing Standards, as prescribed by the Single Audit Act of 1984, or any subsequent OMB Circular. Entities who do not meet the \$750,000 audit threshold (Tier 7), must complete the State of New Mexico – Office of the State Auditor Certification Form for Tier 1 and Tier 2, or the Office of the State Auditor Agreed Upon Procedures (Tiers 3-6) in accordance with the Audit Act, NMSA 1978, Sections 12-6-1 through 12-6-14. To comply with state audit requirements, the Entity shall have one of the above-mentioned Forms or Agreed Upon Procedures on file with the Office of the State Auditor. The Entity shall provide EMNRD with a copy of the independent financial audit, either in hard copy format or on disk, no more than 45 days after the audit's completion for each fiscal year this MOA is in effect.

9. **Disposition, Division, or Distribution of Property; Return of Surplus Funds:** Upon expiration or termination of this MOA, if either party has property or funds in its possession belonging to the other, it shall return the property or funds in proportion to the parties' original contribution.

10. **Equal Opportunity Compliance:** The Entity 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 Entity 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, 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 MOA. If the Entity is found not to be in compliance with these requirements during the life of this MOA, the Entity agrees to take appropriate steps to correct these deficiencies.

11. **Compliance with Funding Source Conditions:** The Entity shall comply with all applicable state and federal statutes and rules and regulations the funding source imposes.

12. **Insurance Coverage**: By signing this MOA, the Entity certifies that activities described in Section 1 above are covered by insurance as specified within this Section, secured in accordance with any method allowed by applicable law, including self-insurance, pooling of self-insured reserves, or insurance provided by a third party. The Entity shall maintain continuous insurance coverage as specified below of the activities described in Section 1 above so long as this MOA is in effect. Failure to maintain such coverage is reason for this MOA's immediate termination. The Entity shall notify EMNRD prior to cancellation or expiration of any insurance required under this MOA.

A. Worker's Compensation protection that complies with the requirements of the New Mexico Workers' Compensation Act, NMSA 1978, Section 52-1-1 *et seq.*, if applicable. If the Entity fails to comply with the Workers' Compensation Act and applicable rules when required to do so, EMNRD may terminate this MOA.

B. Comprehensive public liability protection covering property damage and personal injury liability that may arise under this MOA and any amendments hereto, in amounts equal or greater than liability limits set forth in NMSA 1978, Section 41-4-19, as it may be amended from time to time.

13. **Amendment**: This MOA shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto.

14. **Liability**: Tort Claims Act: Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred with this Agreement is subject to the immunities and limitations of the Tort Claims Act, NMSA 1978, §§ 41-4-1 *et seq.*, as amended.

[Signatures are on next page.]

IN WITNESS WHEREOF, the parties have herein set their hand.

STATE OF NEW MEXICO, ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

By: _____ Date: _____
Cabinet Secretary or Designee

CITY OF SANTA FE

By: _____ Date: _____
Alan Webber, Mayor

Attest:

Kristine Bustos Mihelcic, City Clerk

City Attorney's Office:

Marcos Martinez
Marcos Martinez (May 8, 2023 09:03 MDT)

Senior Assistant City Attorney

Approved for Finances:

Emily Oster, Finance Director

WILDLAND/URBAN INTERFACE AND HAZARDOUS FUELS REDUCTION

Grant Programs Project Work Plan (Work Plan) for: _____ (Entity)

Project Number: _____

Project I.D. Funding: _____

Entity Determination: _____

Forestry Division Project Manager: _____

Project Title: _____

Project Coordinator: _____

Address: _____

Telephone Number: _____ **email:** _____

NOTE: All projects shall comply with 19.20.4.9 NMAC and, if federal funds are used, 2 C.F.R. Part 200.

The Energy, Minerals and Natural Resources Department (EMNRD), Forestry Division (Forestry Division) may extend task due dates by written notice to the Entity if the Forestry Division is satisfied that sufficient progress is being made. Any other changes shall require a written amendment to the Work Plan, approved by the Forestry Division Director or designee, following EMNRD contract review.

I. Project Description/Objectives: Explain the type of project(s) and activities/scope(s) of this project, location(s) and boundaries, priorities, environmental and cultural clearances, how areas will be mitigated, project prescription, etc.

If federal funds are involved, the Entity shall assist the Forestry Division in obtaining any environmental or archeological information that the United States Department of Agriculture, Forest Service (USFS) or United States Department of the Interior, Bureau of Land Management, or other federal agency may require pursuant to EMNRD's agreement with the federal agency. If the project occurs on non-federal or non-tribal trust or restricted fee land, the Entity shall also ensure that landowners assist the Forestry Division in complying with the New Mexico Cultural Properties Act, NMSA, 1978, Section 18-6-8.1 if there are any sites that are registered cultural properties and will be affected. The Forestry Division may also verify through the Archeological Records Management Section (ARMS) if there are any sites that may require protection and to provide the State Historic Preservation Officer a reasonable and timely opportunity in planning such undertaking as required by NMSA 1978, Section 18-6-8.1. Additionally, the Forestry Division will use the New Mexico Environmental Review Tool (<https://nmert.org/>) to determine whether sensitive plant and wildlife resources occur on or near the property.

II. Project Contributors and Budget: List the private, local, tribal, state, or federal organizations that are contributing or participating in project implementation.

Project Costs

NOTE: If you are requiring the Entity to thin or treat, or the Forestry Division or its contractors will be thinning or treating a mandatory number of acres in Section I, make sure that the number of acres required multiplied by the highest thinning or treatment rate does not exceed the total amount available for Contractual Services for Thinning or Treatment.

Match is not required for projects funded with state funds; however, the Forestry Division reserves the right to apply funding from this Work Plan as match for other federal funded programs. The Entity must disclose if funds from this Work Plan will be used as match for other federal funds to prevent the Entity and the Forestry Division from claiming match on mutual or similar projects. When federal funds are used, the Entity shall provide insert percentage of match required; if no match is required, insert NA% of match, unless the Forestry Division authorizes otherwise in writing. If the Forestry Division requires match for projects where federal funds are used, the Entity cannot use other federal funds for match. (See Exhibit 1, Acceptable Types of In-Kind Match or Landowner Reimbursement.) Any federal match must be managed in accordance with 2 C.F.R. 200 even if the source of the match is non-federal. Use extreme care in calculating the number of acres to be thinned or treated. The Forestry Division can only reimburse for the amount specified in the rates for which the Forestry Division will reimburse per acre and the total amount reimbursed for this project cannot exceed the amount in the Grant Column for Contractual Services for Thinning or Treatment. Any thinning or treatment contractors the Entity hires as part of this Work Plan must provide the Entity with proof of current Worker's Compensation Insurance, if coverage is required by state law, and the Entity must provide the Forestry Division with this proof prior to any thinning or treatment activities taking place. The State Forester recommends the employees of all thinning contractors hired under this Work Plan hold the New Mexico Forest Workers Safety Certification.

CONTRIBUTORS	GRANT	ENTITY	TOTAL
DOLLARS	\$	\$	\$
ADMINISTRATIVE COSTS NOT TO EXCEED 5%, 10%, OR 15% (DELETE PERCENTAGES THAT DO NOT APPLY)		X	
IN-KIND MATCH	\$	\$	\$
CONTRACTUAL SERVICES FOR THINNING OR TREATMENT*	\$	LANDOWNER OR ENTITY EMPLOYEE LABOR: \$ THINNING OR TREATMENT CONTRACTOR PAYMENT: \$ TOTAL: \$	\$

TOTAL	\$	\$	\$
-------	----	----	----

**Contractual Services/Entity column shall be used only if Entity's employees are doing the work or the landowner is doing the work or the landowner is paying (hard dollar) a portion of the thinning or treatment contractor's service. If Entity's employees are completing the work or the landowner is completing work, indicate in the Entity portion of the Contractual/Thinning or Treatment Services section what amount is thinning contractor payment and what amount is Entity employee or landowner labor.*

Total grant amount for the project awarded to the Entity is \$XXXXX. The Forestry Division shall pay the Entity XX% of the total grant amount for administrative costs. The Entity shall use the remaining funding (\$XXXXXX) for contractual services to implement hazardous fuel reduction practices on a minimum of XXX acres using the following breakdown.

(Insert treatment type) (i.e. mechanical and chemical cut stump treatments):
 XX acres x \$XXXX per acre (including New Mexico Gross Receipts Taxes) = \$XXXXX

(Insert treatment type) (i.e. chemical treatment of woody invasive re-sprouts):
 XXX acres x \$XXX per acre (including New Mexico Gross Receipts Taxes) = \$XXXXX

Matching dollars (\$XXXXXX) will come from a combination of Entity contributions and documented volunteer time.

III. Billing Instructions/Reporting: The Entity shall invoice the Forestry Division for this project at a minimum of once a quarter, but no more frequently than monthly. The Entity must bill Administrative Costs at (insert percentage amount from Budget Section here) of the amount billed for Contractual Services. The Entity shall submit progress reports to the Forestry Division with each billing. Progress reports shall include the number of acres thinned or treated. The Entity shall use the attached Project Inspection Form (Exhibit 2) to document project completion. If the Entity deviates from this form, it shall first get the Forestry Division's written approval of the changes. **(Mandatory:** The Entity shall use the attached form.)

IV. Documentation of Match: If applicable, include a statement of how this will be performed. The Entity shall use the attached Volunteer and Match Sheet (Exhibit 3), or a close proximity thereof, to document in-kind contributions. The value of volunteer time is \$29.95 per hour. (This value is established by Independent Sector, a nonpartisan leadership network for nonprofits, foundations, based on the average hourly earnings of all production and nonsupervisory workers on private nonfarm payrolls as determined by the U.S. Bureau of Labor Statistics).

V. Certificate of Payment: The Entity shall also use the attached Certificate for Payment (Exhibit 4 - **Mandatory**) when requesting reimbursement from the Forestry Division and shall include certified invoices and volunteer match forms. The Entity must submit the following documentation with each invoice: invoices from thinning or treatment contractors or landowners, inspection report, certificate of payment, documentation of match (see Exhibit 1, Acceptable Types of In-Kind Match or Landowner Reimbursement, for acceptable documentation), and a written narrative progress report (can be the narrative provided on the inspection report).

VI. Project Timeline: Provide a timeline for major milestones, accomplishments, and completion date for project activities. The Forestry Division may extend task due dates by written notice to the Entity if the Forestry Division is satisfied that sufficient progress is being made. Any other changes shall require a written amendment to the Work Plan, approved by the Forestry Division Director or designee, following EMNRD contract review.

<u>Timeline (month/yr.)</u>	<u>Major Task/Deliverables</u>
	See examples below to fill in this table

Project Completion Date: _____.

(See examples below. Delete this instruction and sample items below prior to submitting Work Plan for review.)

- Forestry Division Program Manager issues the Entity a Notice to Proceed.
- The Entity selects landowners based on the Entity's written methodology for landowner selection as specified in Section VIII.
- The Entity enters into landowner agreements. Landowner agreements are required any time work is performed on property not owned by the Entity, regardless of whether the landowner is public or private. If the Entity has already selected the landowners, attach notice of funding availability, landowner application(s), and Entity's evaluation of the application(s) according to Entity's written methodology.
- The Entity (or Forestry Division) completes landowner practice plan.
- Landowner(s)/the Entity/Forestry Division begin(s) thinning or treatment.
- Landowner(s)/the Entity/Forestry Division complete(s) thinning or treatment.
- Forestry Division and the Entity conduct final inspection.
- The Entity submits invoices to Forestry Division for reimbursement.
- The Entity submits final written report to Forestry Division.

VII. Close Out: The Entity shall submit a final project file package to EMNRD when all work is finished, all financial transactions are completed, and the Forestry Division accepts the work.

VIII. (Include this section if the Entity will be conducting work on property other than Entity's own property) **Landowner Selection Methodology:** The Entity shall ensure that the project is available to all eligible landowners. The Entity shall advertise, collect, and select landowner applications pursuant to the Entity's written selection methodology. When requesting landowner applications, the Entity must ensure all eligibility criteria and selection criteria and their relative importance are available at the time the Entity publishes and circulates the request for landowner applications.

1. What criteria were or will be used to determine landowner eligibility (must include funding eligibility criteria, for example if Hazardous Fuel Treatment on Non-federal Lands funding the property must be adjacent to a National Forest and the proposed project must complement hazardous fuel reduction on National Forest lands and the proposed project must be within a Community Wildfire Protection Plan and be in a priority project area) and what evaluation factors were or will be used to rank and select applications that meet the landowner eligibility criteria?

2. What methods were or will be used to advertise the opportunity to the public? (Examples include notice at a post office, newspaper ads, and website notifications).

IX. Landowner Assistance and Practice Plan: The Entity shall use the attached Landowner Assistance and Practice Plan (Exhibit 5). If the landowner is approved to proceed with a project, the Entity shall use the Landowner Practice Plan to document the landowner's objectives and responsibilities, the property condition, and recommended treatments. If the Entity deviates from this form, it shall first seek the Forestry Division's written approval.

X. Landowner Agreements: The Entity shall develop a landowner agreement that defines the relationship and responsibilities between the Entity and landowner during the project. The agreement shall include a description of the property to be treated, landowner responsibilities, and permission to enter the property to conduct and inspect the project. This agreement shall be included in the project file and available to the Forestry Division for review.

XI. Term: This Work Plan shall not become effective until approved by the Forestry Division and the Entity, and after the Department of Finance and Administration has encumbered funds for this Work Plan. It shall terminate on the date specified above in Section VI, Project Timeline.

XII. Termination:

A. Either party may terminate this Work Plan for convenience or cause upon written notice delivered from one to the other at least 10 days prior to the intended termination date. By such termination, neither party may nullify or avoid any obligation required to have been performed prior to termination.

If federal funds are used to pay for the work of this Work Plan, the remaining subsections in Section XI must be included in the Work Plan. If not, delete this instruction and the inapplicable clauses.

B. Notice.

1. Except as otherwise provided in Section XI.B.2 below, the Forestry Division shall give the Entity written notice of termination at least 30 days prior to the intended date of termination.

2. Notwithstanding the foregoing, EMNRD may terminate this Work Plan immediately upon written notice to the Entity if the Entity becomes unable to perform the services contracted for, as determined by EMNRD.

C. Liability. Except as otherwise expressly allowed or provided under this Work Plan or the underlying agreement between EMNRD and the Entity, the Forestry Division's sole liability upon termination shall be to pay for acceptable work performed prior to the Entity's receipt or issuance of a notice of termination; 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 Work Plan. The Entity shall submit an invoice for such work within 30 days of receiving the notice of termination. This provision is not exclusive and does not waive the Forestry Division's other legal rights and remedies caused by the Entity's default/breach of this Work Plan.

D. Termination Management. Immediately upon receipt by the Entity of notice of termination of this Work Plan, the Entity shall:

1. not incur any further obligations for salaries, services, or any other expenditure of funds under this Work Plan without the Forestry Division's written approval;

2. comply with all directives the Forestry Division issues in the notice of termination as to the performance of work under this Work Plan; and
3. take such action as the Forestry Division shall direct for the protection, preservation, retention, or transfer of records generated under this Work Plan.

XIII. Compliance with Law and Funding Source Conditions:

A. The Entity shall comply with all applicable state and federal statutes, rules, or regulations imposed as a consequence of funding pursuant to this Work Plan. The Entity is responsible for obtaining a copy of any federal funding award that provides funding for this Work Plan.

B. The Entity shall provide the Forestry Division all necessary information in a timely fashion for prior approval of all subcontracting to occur with this project.

If federal funds are used to pay for the work of this Work Plan, the remaining subsections in Section XII must be included in the Work Plan. If not, delete this instruction and the inapplicable clauses.

C. The Entity shall also comply with the following clauses in the performance of this Work Plan:

1. Compliance with use of Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) - The Entity shall take affirmative steps to assure that MBEs and WBEs are used when possible as sources of supplies and services. The affirmative steps shall include the following:

- a) including qualified MBEs/WBEs on solicitation lists;
- b) assuring that MBEs/WBEs are solicited once they are identified;
- c) when economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum MBE/WBE participation;
- d) where feasible, establishing delivery schedules which will encourage MBE/WBE participation;
- e) encouraging use of the services of the U.S. Department of Commerce's Minority Business Development Agency and the U.S. Small Business Administration to identify MBEs/WBEs, as required; and
- f) if any contracts are to be let, requiring the contractor to take the affirmative steps listed above.

2. Compliance with Trafficking Victims Protection Act of 2000 - the Entity, the Entity's employees, contractors, and contractors' employees shall not:

- a) engage in severe forms of trafficking in persons during this Work Plan's term;
- b) procure a commercial sex act during this Work Plan's term; or
- c) use forced labor in the performance of this Work Plan.

3. Compliance with NMSA 1978, Section 66-7-374, Texting While Driving - the Entity and the Entity's employees shall not read or view a text message or manually type on a handheld mobile

communication device for any purpose while driving a motor vehicle in connection with this Work Plan, except to summon medical or other emergency help, or unless that device is an amateur radio and the driver holds a valid amateur radio operator license issued by the Federal Communications Commission.

4. If federal funding is used for this Work Plan, the Entity shall comply with 2 C.F.R. Sections 200.318 through 200.326 for procurement of property or services conducted pursuant to this Work Plan, including procurement of thinning or treatment contractors.

5. The Entity shall not award contracts to parties listed on the governmentwide exclusions in the federal System for Award Management (SAM), in accordance with OMB guidelines that implement federal Executive Orders 12549 (3 C.F.R. page 1986, Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension". SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regularity authority other than Executive Order 12549.

6. If applicable, the Entity must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the U.S. Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the items exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

7. If the value of this Work Plan exceeds \$100,000, the Entity shall comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) regarding the limitations of use of appropriated funds to influence certain federal contracting and financial transactions.

8. If this Work Plan is valued at more than \$150,000, the Entity shall comply with all applicable standards orders or requirements issued under the federal Clean Air Act (42 U.S.C. § 7401 *et seq.*); Clean Water Act (33 U.S.C. § 1251 *et seq.*); Executive Order 11738 (Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act With Respect to Federal Contracts, Grants, or Loans); and EPA regulations.

9. The Entity 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 Entity 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 Work Plan. If the Entity is found not to be in compliance with these requirements during the life of this Work Plan, the Entity agrees to take appropriate steps to correct these deficiencies.

10. Whistleblower Protection:

A. If this Work Plan is valued at more than \$150,000, the Entity shall inform its employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. § 4712.

B. The Entity shall insert the substance of this clause, including this paragraph in all contracts over \$150,000.

If the Entity is determined to be a Subrecipient, the following information must be included in this Work Plan. Please make sure all blanks are filled in before submitting Work Plan for review. If not, delete the following Section XIII in its entirety. Delete this instruction before submitting Work Plan for review.

XIV. Subrecipient Information and Requirements:

- A. [Insert Entity Name], [insert DUNS # _____] has been determined to be a subrecipient and is hereby notified of the identifying federal award information as follows:
- B. Catalog of Federal Domestic Assistance (CFDA) Number: 10.664
CFDA Project Title: Cooperative Forestry Assistance
Federal Awarding Agency: U.S. Department of Agriculture, Forest Service
Pass-Through Entity: EMNRD, Forestry Division
Federal Award Identification Number (): DG# _____
Federal Award Date: *[Insert the date when the federal award is signed by the authorized official of the federal awarding agency]*
Subaward Period of Performance: Begins on the date of the signed Notice to Proceed and expires on the Project Completion Date in Section VI., Project Timeline.
- C. Subrecipient's award is not for research and development.
- D. Subrecipient shall comply with all applicable state and federal statutes and rules or regulations imposed because of funding pursuant to this Work Plan. Subrecipient shall permit the Forestry Division, USFS, and auditors to have access to the records and financial statements as necessary for the Forestry Division to comply with OMB Circular A-133, Subpart D (d) (7).
- E. If any part of this Work Plan is federally funded in an amount equal to or greater than \$25,000, to an entity determined to be a subrecipient, the Forestry Division will disclose subaward information pursuant to the Federal Funding Accountability and Transparency Act (FFATA) using FFATA Subaward Reporting System (FSRS). The FFATA or Transparency Act-P.L. 109-282, as amended by section 6202(a) of P.L. 110-252 requires the Office of Management and Budget (OMB) to maintain a single, searchable website that contains information on all federal spending awards. The site is www.USAspending.gov.
- F. A subrecipient that expends \$750,000 or more of federal awards (in the aggregate from any source) in a fiscal year is required to obtain an annual audit in accordance with 2 C.F.R Part 200, Audit Requirements § 200.501 through § 200.512 and Appendix XI to Part 200 - Compliance Supplement. A subrecipient that does not meet the \$750,000 audit threshold (Tier 7), must complete the Certification (Tiers 1 or 2) or Agreed Upon Procedures (Tiers 3 - 6) in accordance with the Audit Act, NMSA 1978, Sections 12-6-1 through 12-6-14. Compliance with state audit requirements requires one of the above mentioned tiers to be on file with the New Mexico Office of the State Auditor (OSA).
- G. A subrecipient that qualifies for Tiers 1 or 2 must submit a copy of the certification electronically to the Forestry Division federal grant coordinator or designee annually. The Forestry Division will download Tiers 3 - 7 requirements directly from the OSA website for review annually. Please note: If a subrecipient has a Single Audit (Tier 7) conducted, please ensure the Forestry Division is identified as the pass-through entity and the subaward number assigned is listed on the subrecipient's Schedule of Expenditures of Federal Awards report as the pass-through entity. Non-compliance with the Single Audit Act or the State Audit Act, as cited above, may result in a loss of federal funds awarded to the subrecipient.
- H. Subrecipient is subject to the terms and conditions herein, except with respect to the OMB

Uniform Administrative Requirements, Cost Principles, and Audit Requirements under 2 C.F.R. Part 200, Subparts A – F. The terms and conditions of federal awards flow down to subawards and subrecipients unless a section of 2 C.F.R. Part 200, Subparts A – F, or the terms and conditions of the federal award specifically indicate otherwise.

INSERT CONTRACTOR NAME HERE

Authorized Representative (Please print name)

Signature: _____

Date

EMNRD FORESTRY DIVISION

Approved by:

State Forester or Designee

Date

Exhibit 1

ACCEPTABLE TYPES OF IN-KIND MATCH OR LANDOWNER REIMBURSEMENT

Exhibit A – Costs that can be used as in-kind match or landowner reimbursement

Federal grant funds are governed by the cost principles of the Office of Management and Budget (OMB). Allowable costs are those costs identified in the relevant OMB circulars and in the grant program's authorizing legislation. To be allowable under Federal awards, costs must be reasonable, allocable, and necessary to the project, and they must also comply with the funding statute requirements.

Category	Documentation Required
Salaries and Wages	
Volunteer Time - landowner Rate includes 10% for benefits.	Volunteer Sign-up sheet or a close proximity thereof.
Equipment & Maintenance	
Dozer	Equipment Shift ticket or similar
Tractor/loader	Equipment Shift ticket or similar
Trailer	Equipment Shift ticket or similar
4-wheeler	Equipment Shift ticket or similar
Chipper	Equipment Shift ticket or similar
Skidder	Equipment Shift ticket or similar
Masticator	Equipment Shift ticket or similar
Feller Buncher	Equipment Shift ticket or similar
Personal Chainsaw	Equipment Shift ticket or similar
Fuel tank rental	Charged at their actual costs, receipts must be provided
Oil changes and filters	Charged at their actual costs, receipts must be provided
Supplies	
Chainsaw Fuel	Receipt for the fuel charges, and hours that chainsaw was used
Herbicide	Charged at their actual costs, receipts must be provided
Sprayers	Charged at their actual costs, receipts must be provided
Chainsaw parts	Charged at their actual costs, receipts must be provided
Field supplies	Charged at their actual costs, receipts must be provided
Consulting/Contractual	
Aerial Application	Charged at their actual costs, receipts, invoices or accounting entries must be provided
Mapping	Charged at their actual costs, receipts, invoices or accounting entries must be provided
Vehicle Costs	
Mileage	Can charge the current State's mileage reimbursement amount
Advertising	
Notices/Legals	Charged at their actual costs, receipts must be provided



Exhibit 2

PROJECT INSPECTION FORM

Landowner Information (please print)

Landowner's Name _____
Address _____
City _____ State _____ Zip _____
Phone _____ Email _____
Latitude _____ Longitude _____
Inspector Name _____

Completed Wildfire Mitigation Activities (Attach Completed Landowner Assistance and Practice Plan.)

Basal Area Check (if applicable): _____

GPS confirmation of completed acres (must provide spatial data to the Forestry Division):

Treatment Type: _____

_____ **Acres treated X \$** _____ /ac = _____

Inspection and treatment narrative(required):

Approved:

Authorized representative signature _____ Date _____

If applicable:

EMNRD Forestry Division Review _____ Date _____

Exhibit 3

VOLUNTEER AND MATCH SHEET

	Laborer	Tractor	Pickup	Trailer	Chainsaw	ATV	Chipper	Skidder	Misc.
	\$25.43	\$40.00	\$10.00	\$6.00	\$2.75	\$6.88	\$22.12	\$50.00	
	per hour	per hour	per hour	per hour	per hour	per hour	per hour	per hour	
Date									
Total hours									
Total dollar amount									

Name of Volunteer: _____ Date: _____ Total (this sheet): _____

Signature: _____ Date: _____

Exhibit 4

**[INSERT VENDOR REMIT TO NAME/ADDRESS]
 CERTIFICATE FOR PAYMENT**

Project Title: _____
Project Number: ____-____-____
[Remit to address]

Contract No.: _____ Invoice No.: _____ Invoice Date: _____

Termination: _____

Accomplishment: _____ No. Acres: _____ No. Projects: _____
Match Acres: _____

Billing represents work completed beginning (date) _____ through (date) _____

ITEM	MATERIAL OR WORK PERFORMED	GRANT AMOUNT	\$ DUE THIS BILLING	PREVIOUS BILLINGS	BALANCE REMAINING
1	Contractual Services				
2	Administrative Cost 5/10/15%				
3	Match Amount				
4					
	Subtotal				
	TOTAL CONTRACT				

CERTIFICATION

I hereby certify that the work described herein has been performed and that no previous payment for the Total Amount Due this Statement, as shown above, has been received.

By: _____
EMNRD Forestry Division Project Manager

By: _____
Authorized Project Representative

Date: _____

Date: _____

Exhibit 5

LANDOWNER ASSISTANCE AND PRACTICE PLAN

(If landowner proposal does not require full practice plan, only fill out the areas below that suffice. If practice plan required, fill out – use your best judgment. Delete this instruction.)

PROJECT TITLE: _____

NAME: _____

ADDRESS: _____ ZIP: _____

PHONE: _____ email: _____

GEOGRAPHIC LOCATION: Latitude: _____ Longitude: _____
(subdivision/general location) _____

Property Owner: YES__ NO_ (If no and property is leased – provide copy of lease agreement)

TOTAL ACRES: _____

Proof of Insurance: YES___ NO___ INSURANCE CO./POLICY #: _____

.....
LANDOWNER SHORT TERM OBJECTIVES: (CHECK ALL THAT APPLY)

- ___ To create defensible space and reduce wildfire hazard in highly vulnerable Wildland/Urban Interface or Hazardous Fuels Reduction area.
- ___ To thin ___ acres of forested land to improve overall forest health and control disease and insect pests.
- ___ To increase the vigor and growth rate of residual trees while removing excess, poor quality, dead, and dying trees.
- ___ To improve the diversity of grasses, forbs, and wildflowers for wildlife forage production in the treated area.
- ___ Other: _____

LANDOWNER LONG TERM OBJECTIVES: (CHECK ALL THAT APPLY)

- ___ To reduce the long-term wildfire hazard on the property in the wildland/urban interface or hazardous fuels reduction area.
- ___ To improve and maintain the overall health and vigor of the forest by periodic thinning of overstocked stands.
- ___ To improve the productivity and health of the watershed.
- ___ To protect and improve wildlife habitat and enhance the aesthetic value of the forest.
- ___ To serve as an example to other residents of how active forest management can improve property values.
- ___ Other _____

TREATMENT PLAN: (Narrative-prior activities)

DEFENSIBLE SPACE:

THINNING:

LANDOWNER RESPONSIBILITIES: (Define or describe landowner responsibilities. Examples for defensible space might include moving woodpile, raking needles and litter around structures, cleaning brush/debris around LP tank, installing spark arrestors on chimneys (required), etc. Examples for WUI or Hazardous Reduction thinning might include maintaining fences, maintaining access (roads), re-seeding where applicable, controlling erosion, maintaining defensible space and fuel loading with periodic cutting, clearing, clearly identifying property boundaries, removing fuel wood within the project area, etc.)

SITE DESCRIPTION

TREATED ACREAGE:

FOREST TYPE:

AVERAGE SLOPE CLASS:

Def. Space: _____

Thinning: _____

Aspect: _____

- ___ Piñon/Juniper
- ___ Ponderosa Pine
- ___ Mixed Conifer
- ___ Other

- ___ Less than 10%
- ___ 10-20%
- ___ 20-30%
- ___ Greater than 30%

BASAL AREA:

Before Treatment: _____

After Treatment: _____

Method of Slash Disposal: _____

Treatments Completed: _____

Sq. Ft./Acre

Sq. Ft./Acre

Estimated # of trees per acre: _____

Removed: _____

I understand that the defensible space and fuel reduction work will need to be maintained and agree to complete the maintenance work as long as I own/manage this land.

DATE: _____

CONTRACTOR: _____

CERTIFIED BY: _____

Property Owner Signature: _____ Date: _____

**JOINT POWERS AGREEMENT
BETWEEN THE
NEW MEXICO ENERGY, MINERALS AND
NATURAL RESOURCES DEPARTMENT
AND
CITY OF SANTA FE**

ITEM # 11-0068

THIS AGREEMENT is made and entered into by the New Mexico Energy, Minerals and Natural Resources Department (EMNRD) and the City of Santa Fe (City) pursuant to the Joint Powers Agreements Act, NMSA 1978, §§ 11-1-1, *et seq.* The common power to be exercised is as follows:

EMNRD and the City are public agencies and are authorized by law to enter into this Joint Powers Agreement; and

Pursuant to NMSA 1978, §§ 68-2-1 to 68-2-33, EMNRD is responsible for protecting forests and providing forest management technical assistance including forest health; and

Pursuant to NMSA 1978, § 3-18-11, the City is responsible for providing fire protection and prevention; and

WHEREAS, EMNRD from time to time receives funds from the State of New Mexico (State) and United States Department of Agriculture (USDA) to mitigate the threat of wildland fire and improve forest health; and

WHEREAS, SHARE JPA 000 ... 2473 (EMNRD No. 04-521-0494-0080) is terminated and replaced with this Agreement; and

WHEREAS, EMNRD and the City desire to enter into this Agreement for administrative efficiency so that the project can be carried out through a single program; and

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES THAT THE METHOD BY WHICH THIS PURPOSE SHALL BE ACCOMPLISHED IS AS FOLLOWS:

1. Both parties agree as follows:

A. Wildland Urban Interface (WUI) and Hazardous Fuels Reduction (HAZ) Grant Programs projects or other fuels reduction projects conducted under this Agreement shall involve work that emphasizes improving watershed areas on public and private land, the development of defensible space for individual homeowners, development of fuel breaks along common boundaries between private and public land, and assisting with thinning of individual lots and subdivision groups. There may be



multiple projects conducted as part of this Agreement. Each project to be conducted under this Agreement shall follow the attached Project Work Plan (Exhibit A).

B. The City shall perform no work until the Project Work Plan is in place and EMNRD, acting through its Forestry Division, issues in writing a Notice to Proceed.

C. The Project Work Plan shall describe the project including its objectives, standards to be used to measure the work, a rate sheet establishing the payments for work and the match requirements, timelines, landowner obligations and permission, environmental clearances, a budget, a wildfire mitigation practice plan, inspection and certification forms, procurement requirements, billing and payment practices, reporting requirements, and match documentation.

2. City shall:

A. Consult with EMNRD and request the work to be performed based upon the needs of the City to improve natural resources on lands within the City through the performance of natural resource restoration. Such work shall be performed in those areas that have the greatest impact on mitigating the threat of wildfires and improving forest health. The City shall coordinate its projects with activities being conducted by other entities where feasible.

B. Prepare a Proposed Project Work Plan (Exhibit A) for each individual project for consideration and approval by EMNRD.

C. Provide a written activity report of work completed as set forth in the Project Work Plan.

D. Provide EMNRD with invoices for payment supported by detailed certified statements of account documenting the services rendered for each payment as necessary but no more frequently than on a weekly basis.

3. EMNRD shall:

A. Reimburse the City out of state or federal funds for all reimbursable costs incurred under this Agreement for materials and labor in an amount not to exceed the limit set in the Project Work Plan. That limit, which will vary due to the type of each project and its complexity, shall include New Mexico Governmental Gross Receipts Taxes, if applicable. Reimbursement is contingent upon the City expending matching funds, if applicable, as set forth in the Project Work Plan. The matching amount shall be dependent on the allocation made to EMNRD by the state or USDA and the amount EMNRD makes available to the City.

B. Make all disbursements for costs by voucher supported by approved purchase order or equivalent document and invoice from the City evidencing the propriety

of each payment. Amounts charged for personal services will be based on payrolls maintained by the City and supported by time and attendance sheets.

C. Provide overall guidance on goals and objectives for forest insect and disease and forest health program activities on state and private lands in New Mexico.

D. Inspect project implementation and certify work as being in compliance with each Project Work Plan.

4. **Term:** THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE SECRETARY OF THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION (DFA) OR WHEN DFA ENCUMBERS FUNDS FOR THIS AGREEMENT, WHICHEVER DATE IS LATER. It shall continue indefinitely unless earlier terminated pursuant to the Termination Paragraph or Appropriations Paragraph below.

5. **Termination:**

A. Either party may terminate this Agreement upon written notice delivered to the other at least 10 days prior to the intended termination date. Except as otherwise allowed or provided under this Agreement, EMNRD's sole liability upon such termination shall be to pay for acceptable work performed prior to the City's receipt of the notice of termination. The City shall submit an invoice for such work within 30 days of receiving the notice of termination. By such termination, neither party may nullify obligations or duties accrued prior to the termination date.

B. Immediately upon receipt by either EMNRD or the City of notice of termination of this Agreement, the City shall:

1) not incur any further obligations for salaries, services, or any other expenditure of funds under this Agreement without EMNRD's written approval;

2) comply with all directives EMNRD issues in the notice of termination as to the performance of work under this Agreement; and

3) take such action as EMNRD directs for the protection, preservation, retention, or transfer of all property titled to EMNRD and records generated under this Agreement.

C. Any non-expendable personal property or equipment provided to or purchased by the City with Agreement funds shall become EMNRD's property upon termination and City shall submit such property or equipment to EMNRD as soon as practicable.

6. **Appropriations:** This Agreement's terms are contingent upon the New Mexico State Legislature, USDA and EMNRD granting sufficient appropriation and authorization. If sufficient appropriation or authorization is not granted, either party may terminate this Agreement, or suspend performance pending approval of sufficient appropriation or authorization, upon written notice from one to the other. Either party's decision as to whether sufficient appropriations are available shall be final, binding and accepted by the other.

7. **Subcontracting:** The City shall not subcontract any portion of the services it performs under this Agreement or obligate itself in any manner to any third party, with respect to any rights or responsibilities under this Agreement, without EMNRD's prior written approval.

A. The City is required to provide EMNRD with evidence of competitive procurement for any subcontract, including records of advertisement of bid, proposals received, and methods to select each subcontractor.

B. Any subcontract shall include provisions necessary to allow the City to meet its obligations and requirements under this Agreement.

8. **Strict Accountability for Receipts and Disbursements:**

A. The City shall be strictly accountable for receipts and disbursements relating hereto and shall make all relevant financial records available to EMNRD, DFA, the New Mexico State Auditor, and USDA upon request, and shall maintain all such records for seven years after this Agreement has expired or has been terminated.

B. If City receives \$500,000 or more in federal funding from all sources in the aggregate in a fiscal year, City's financial records involving services and procurement under this Agreement shall be audited annually pursuant to all federal, state, and local government audit requirements 2 C.F.R. Part 225 and OMB Circular and A-133, as prescribed by the Single Audit Act of 1984, or any subsequent OMB Circular. City shall provide EMNRD with a copy of the independent financial audit, either in hard copy format or on disk, no more than 45 days after the audit's completion for each fiscal year this Agreement is in effect.

9. **Disposition, Division, or Distribution of Property: Return of Surplus Funds:** Upon expiration or termination of this Agreement, if either party has property or funds in its possession belonging to the other, it shall return the property or funds in proportion to the parties' original contribution.

10. **Equal Opportunity Compliance:** The City 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 City assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, 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 the City is found not to be in compliance with these requirements during the life of this Agreement, the City agrees to take appropriate steps to correct these deficiencies.

11. **Compliance with Funding Source Conditions:** The City shall comply with all applicable state and federal statutes and rules or regulations the funding source imposes.

12. **Insurance Coverage:** By signing this Agreement, the City certifies that the activities described in Section 1 above are covered by insurance as specified within this Section, secured in accordance with any method allowed by applicable law, including self-insurance, pooling of self-insured reserves or insurance provided by a third party. The City shall maintain continuous insurance coverage as specified below of the activities described in Section 1 above so long as this Agreement is in effect. Failure to maintain such coverage is reason for this Agreement's immediate termination. The City shall notify EMNRD prior to cancellation or expiration of any insurance required under this Agreement.

A. Worker's Compensation protection that complies with the requirements of the New Mexico Worker's Compensation Act, NMSA 1978, §§ 52-1-1, *et seq.*, if applicable. If the City fails to comply with the Workers Compensation Act and applicable rules when required to do so, EMNRD may terminate this Agreement.

B. Comprehensive public liability protection covering property damage and personal injury liability that may arise under this Agreement and any amendments hereto, in amounts equal or greater than liability limits set forth in NMSA 1978, § 41-4-19, as it may be amended from time to time.

13. **Amendment:** This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto and approved by the DFA Secretary.

14 **Existing Project Work Plans:** Any Project Work Plans approved under the Agreement superseded and terminated by this Agreement and not yet completed shall remain in full force and effect and shall be approved under this Agreement as of the effective date of this Agreement.

IN WITNESS WHEREOF, the parties have herein set their hand.

**STATE OF NEW MEXICO, ENERGY, MINERALS AND NATURAL RESOURCES
DEPARTMENT**


By:  Date: 02-25-11
Cabinet Secretary or Designee

CITY OF SANTA FE

By:  Date: 1-28-11
Authorized Representative


David Coss, Mayor
Contractor's Printed Name and Title

STATE OF NEW MEXICO, DEPARTMENT OF FINANCE AND ADMINISTRATION


By:  Date: 3/7/11
*PR
3/1/11*

CITY OF SANTA FE:

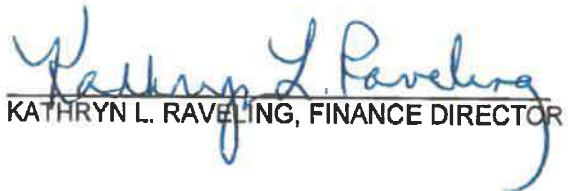
ATTEST:


YOLANDA Y. VIGIL, CITY CLERK
countg 1/26/11

APPROVED AS TO FORM:


GENO ZAMORA, CITY ATTORNEY

APPROVED:


KATHRYN L. RAVELING, FINANCE DIRECTOR



City of Santa Fe, New Mexico

Memorandum



DATE: July 18, 2023

TO: Finance Committee
Quality of Life Committee
Governing Body

VIA: Travis Dutton-Leyda, Chief Procurement Officer
Maria E. Tucker, Community Services Director ^{MT}
Manuel Sanchez, Business Operations Manager ^{MS}

FROM: Margaret Neill, Library Director ^{MMN}

ITEM AND ISSUE:

Santa Fe County MOU request for the approval of Agreement No. 2023-0208-CSD/BT in the Total amount of \$25,000.00 for reimbursement through South Side Library. Term 08/2023-06/2024; Santa Fe County.
Gail L. Vigil, glvigil@santafenm.gov 505-955-6789

BACKGROUND AND SUMMARY:

Every year, Santa Fe County provides funds to the Santa Fe Public Library for reimbursement, through its Southside branch, of funds spent in pursuit of providing library services. This reimbursement is provided upon receipt of invoices detailing operational costs incurred at the Southside branch. No application was required to receive this reimbursement. This year, the County has made funds in the amount of \$25,000 available for reimbursement through Agreement No. 2023-0208-CSD/BT, payable at any point between the commencement of the agreement and June 2024.

PROCUREMENT METHOD:

Memo of Understanding (MOU)

CONTRACT NUMBER:

The FY23/24 Munis contract number is 3204190
Project # LIB2425101

FUNDING SOURCE:

The funding source is:
Revenue Number : 2510104.491010
Fund Name/Number: Library/Fund 251
Munis Org Name/Number: SouthSide Library/2510104
Munis Object Name/Number: Software Subscriptions/530710

ACTION REQUESTED:

Community Services/Library respectfully requests your review and approval.

Signature: 

Margaret M. Neill (Jul 25, 2023 08:35 AM CT)

Email: mmneill@santafenm.gov

Signature: 

Manuel Sanchez (Jul 25, 2023 08:44 AM CT)

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



City of Santa Fe

Summary of Contract, Agreement, Amendment & Lease

All applicable fields to be completed by department (complete 1.b only if you are processing an amendment):

1.a Munis Contract: 3204190 Procurement # (RFP/ITB# If any):

Contractor: Santa Fe County

Procurement Method: Small Purchase RFP ITB Sole Source GSA Cooperative Exempt

Description/Title: Grant Reimbursement through the Southside branch in pursuit of providing library services.

Contract: Agreement: Lease/Rent: Amendment:

Term Start Date: 08/23 Term End Date: 06/30/2024 Total Contract Amount: \$25,000.00

Approved by Council (if over the City Manager's approval threshold, you must go through GB)

Contract / Lease:

1.b Amendment #: to the Original Contract/Lease #

Increase/(Decrease) Amount \$:

Extend Expiration Date to:

Approved by Council (if the original went through GB, all amendments must go through GB regardless of the amendment reason) Date:

Amendment is for:

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

3. Procurement History: MOU

Jordan Lovato Monteiro

Purchasing Officer Review:

Aug 8, 2023

Date:

Comment & Exceptions: No procurement

4. Funding Source: Library Programs

Andy Hopkins

Andy Hopkins (Aug 7, 2023 11:10 MD)

Budget Officer Approval:

Org / Object: 2510104.491010

Aug 7, 2023

Date:

Comment & Exceptions:

5. Grant History (if applicable): 1st year of 4

Grants Administrator Approval: Date

Staff Contact who Completed This Form: Gail L. Vigil Phone #: 505-955-6787

To be recorded by City Clerk:

Email: glvigil@santafenm.gov

Clerk #

Date of Execution:

ITT Representative (attesting that all information is reviewed)

Title

Date



CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Santa Fe County

Procurement Title: Santa Fe County MOU

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 Community Services/Library Staff Name Gail L. Vigil

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES N/A

- | | | |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Approved Procurement Checklist (by Purchasing) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Memo addressed to City Manager (under 60K) Committees/City Council (over 60K) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | State Price Agreement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | RFP |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Evaluation Committee Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | ITB |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Bib Tab |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Quotes (3 valid current quotes) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Cooperative Agreement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Sole Source Request and Determination Form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contractors Exempt Letter |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Purchasing Officers approval for exempt procurement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | BAR |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | FIR |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Executed Contract, Agreement or Amendment |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Current Business Registration and CRS numbers on contract or agreement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Summary of Contracts and Agreements form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Certificate of Insurance |
| <input type="checkbox"/> | <input type="checkbox"/> | All documentation presented to Committees |
| <input type="checkbox"/> | <input type="checkbox"/> | Other: |

Gail L. Vigil Contracts Admin 07/25/23

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

Julian Lavado Mendez Contracts Supervisor Aug 8, 2023

Purchasing Officer (attesting that all information is reviewed) Title Date

ITT Representative (attesting that all information is reviewed) Title Date

Include all other substantive documents and records of communication that pertain to the procurement and contract.



City of Santa Fe New Mexico

Finance Department

Project Ledger Request Form



Date of Request: 07/13/2023

Project Title: SF County MOA-SOUTHSIDE LIBRARY

Project Type: CIP Grant Internal tracking

Department: Community Services

Project Manager: Gail Vigil Ext: 6787

Project Date Range: 08/23 to 08/24 Create Fixed Asset

Multi-Funding (complete all funding sources, should equal 100%)

Funding Source: SF COUNTY MOA % of Funding: 100

MUNIS Org: 2510104 MUNIS Object: 491010 Awarded Amount: \$25,000.00

Funding Source: _____ % of Funding: _____

MUNIS Org: _____ MUNIS Object: _____ Awarded Amount: _____

Expense String Phase

A project must have at least one phase identified. this can be used as an additional level of tracking, for example, CIP - design, start-up cost, etc. For grants can be used as reimbursable types, such as transportation, salaries.

(You can create more than one phase and you can default MUNIS Orgs and Objects, optional)

Phase: Software Subscription MUNIS Org: 2510104 MUNIS Object: 530710

Phase: Books/Subs/Period MUNIS Org: 2510104 MUNIS Object: 530700

Phase: _____ MUNIS Org: _____ MUNIS Object: _____

Grants Only (list all grants if applicable) * LOCAL FUNDS

Grantor Name: County MOA 2023-0208-CSD/BT Awarded Amount: \$25,000.00

AR Charge Code: _____ Grant funds multiple projects
(Complete a form for each project)

Grantor Id: _____ Federal CFDA (if applicable) _____

Grantor Name: _____ Awarded Amount: _____

AR Charge Code: _____ Grant funds multiple projects
(Complete a form for each project)

Grantor Id: _____ Federal CFDA (if applicable) _____

(If grants please provide all grant award documents with form) Attached to Grant

**MEMORANDUM OF AGREEMENT
BETWEEN SANTA FE COUNTY
AND THE CITY OF SANTA FE**

THIS MEMORANDUM OF AGREEMENT (the "Agreement") is entered into on the _____ day of _____, 2023, between Santa Fe County (the "County"), a political subdivision of the state of New Mexico, and the City of Santa Fe (the "City"), a municipality, 200 Lincoln Avenue, Santa Fe, New Mexico 87504.

WHEREAS, in the spirit of cooperation, mutual respect and service to the residents of the County and the City, this Agreement confirms the parties' commitment and mutual cooperation which recognizes that the partnering activities between government entities may produce community and constituency benefits beyond what might be produced independently; and

WHEREAS, this Agreement is exempt from the provisions of the Procurement Code, NMSA 1978, Section 13-1-98 (A); and

WHEREAS, the City through the City's Southside Library, provides the County with programs that promote reading and literacy, and is committed to improving opportunities for community members to enhance their cultural and leisure activities; and

WHEREAS, the County desires to assist the City continue to provide these library programs.

NOW, THEREFORE, IT IS AGREED BETWEEN THE PARTIES:

1. Agreement

The City, Southside Library, shall perform the following:

- a) Promote reading, literacy, and the dissemination of information free of charge to the public;
- b) promote the appreciation of culture and the arts;
- c) inform the community about the library's collections and services;
- d) preserve and teach about the local history and the environment; and
- e) cover issues of current local interest to residents, and
- f) invoice the County prior to June 30, 2024.

2. COMPENSATION

A. The total compensation to be paid under this Agreement must not exceed **\$25,000.00**.

B. All payments under this Agreement will be paid as reimbursements for operational costs incurred by the Southside Library. Prior to cost reimbursement, the Southside Library must submit a fund requisition with documentation in support of each budgetary category and operational expense. The documentation must include the

original or certified copies of invoices, vouchers, budgetary and other restrictions of expense.

C. Reimbursement will be made upon receipt of a detailed, certified invoice supporting operational costs incurred by the Southside Library. Thirty business days will be allowed for payment after receipt of the invoice.

D. Payment under this Agreement will not foreclose the right of the County to recover any excessive or illegal payment(s).

3. EFFECTIVE DATE AND TERM

This Agreement will become effective as of the date of last signature by the parties and terminate one year from such date, unless earlier terminated pursuant to Section 4 (Termination) or Section 14 (Appropriations). The term may be extended for one year by mutual agreement of the parties. The extension must be by written amendment.

4. TERMINATION

A. Termination of Agreement. This Agreement may be terminated by the County upon written notice to the City at least 30 days prior to the intended date of termination. By such termination, no party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

B. Termination of Agreement for Cause. If a party fails to fulfill in a timely and proper manner its obligations under this Agreement, or if a party violates any of the agreements or terms of this Agreement, the non-breaching party will have the right to suspend or terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date thereof. Notwithstanding the above, no party will be relieved of liability to the other party for damages sustained because of any breach of the Agreement.

5. PERSONNEL

A. The City represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. Such personnel will not be County employees or have any contractual relationships with the County.

B. All services required hereunder will be performed by the City's Southside Library and all personnel engaged in the services must be fully qualified and be authorized or permitted under state and local law to perform the services.

6. ASSIGNMENT

The City will 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 County.

7. SUBCONTRACTING

The City will not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County.

8. NO THIRD-PARTY BENEFICIARIES

This Agreement is not intended to and does not create any rights in any persons or party not a party.

9. RELEASE

Final reimbursement of the amount due under this Agreement will operate as a release of the County, its officers and employees, and Santa Fe County from all liabilities, claims and obligations arising under this Agreement.

10. LIABILITY

Neither party will be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred by either party in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1.

11. AMENDMENT

This Agreement must not be altered, changed or amended except by an instrument in writing signed by the parties.

12. INTEGRATION CLAUSE

This Agreement incorporates all the understandings and agreements between the parties and all such understandings are merged into this Agreement. No prior understandings, verbal or otherwise, of the parties will be valid or enforceable unless embodied in this Agreement.

13. APPLICABLE LAW; VENUE

This Agreement will be construed in accordance with the laws of the State of New Mexico. The City and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement will be the State District Court of New Mexico, First Judicial District, located in Santa Fe County.

14. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made by the Santa Fe County Board of County Commissioners and if state funds are

involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement will terminate upon written notice by the County to the City. Such termination will be without penalty to the County, and the County will not be obligated to reimburse the City for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement will be final and not subject to challenge by the City.

15. FAX or ELECTRONIC SIGNATURE

The parties hereto agree that a fax or electronic signature has the same force and effect as an original.

16. NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by the County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1.

17. PROHIBITED ACTIVITY

The City is prohibited from using the funds provided under this Agreement for political activities; sectarian or religious activities; lobbying; or political patronage.

18. RECORDS AND FINANCIAL AUDIT

A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the City agrees to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").

B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, the City also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

19. 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.

20. EQUAL OPPORTUNITY COMPLIANCE

The City agrees to abide by all federal and state laws, rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the City assures that no person in the United States will, 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 activity performed under this Agreement. If the City is found not to be in compliance with these requirements during the life of this Agreement, the City agrees to take appropriate steps to correct these deficiencies.

21. INVALID TERM OR CONDITION

If any term or condition of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected and will remain valid and enforceable.

22. NOTICES

Any notice required by this Agreement must be given in writing to the parties designated below. Notice will be effective when delivered personally to any party, or three business days after deposited, postage fully prepaid, registered or certified, in an official receptacle of the U.S. Postal Service.

For City: John Blair, City Manager
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87504
Phone: 505-955-6848

For County: Santa Fe County Community Services Department
Attn: Rachel O'Connor, Director
100 Catron St.
Santa Fe, NM 87501
Phone: 505-670-5333

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the date of last signature by the parties.

SANTA FE COUNTY:



Gregory S. Shaffer
Santa Fe County Manager

6/28/2023

Date

Approved as to form:

Roberta D. Joe for J.Y.

Jeff Young
Santa Fe County Attorney

June 14, 2023

Date

Finance Division



Yvonne S. Herrera
Finance Director

6/27/2023

Date

CITY OF SANTA FE:

Alan Webber, Mayor

Date

Attest:

Kristine Bustos-Mihelcic, City Clerk

Date


Marcos Martinez July 17, 2023 10:38 AM DT

Senior Assistant City Attorney

Date

Emily K. Oster, Finance Director

Date



City of Santa Fe New Mexico

Memorandum



Date: August 8, 2023

To: Governing Body

From: Lee Logston 8/8/2023
Lee Logston, Asset Development Manager, Office of Economic Development

CC: Richard Brown Aug 8, 2023
Rich Brown, Director
Community & Economic Development Department

RE: **Request for Approval to enter into an Exclusive Negotiation Agreement with Santa Fe Art Institute, dba as Managing Member of the Midtown Arts and Design Alliance, LLC (“MADA, LLC”) to negotiate terms for land and building disposition and Redevelopment of the Midtown Visual Arts Center pursuant to the City's Request for Proposals No. 23/17/P.**

EXECUTIVE SUMMARY:

Request for Approval to enter into an Exclusive Negotiation Agreement (ENA) with Midtown Arts and Design Alliance, LLC (“MADA, LLC”) to negotiate terms for land and building disposition and redevelopment of the Midtown Visual Arts Center pursuant to the City's Request for Proposal No. 23/17/P with a Good Faith Deposit in the amount of \$7,500.00 The ENA, if approved, will allow the City of Santa Fe to negotiate terms for land and building disposition and redevelopment of the Midtown Visual Arts Center pursuant to the City's Request for Proposal No. 23/35/P.

BACKGROUND:

Pursuant to Resolution #2022-12, the City of Santa Fe pursued master planning of the Midtown Site. The Midtown Master Plan was adopted by the Governing Body on November 30, 2022 (Resolution #2022-68), and the Midtown Community Development Plan (Resolution 2023-5) was adopted on January 25, 2023 (Resolution #2023-5). Also pursuant to Resolution #2022-12, the City of Santa Fe released a Request for Proposals (RFP) for the Redevelopment of the Midtown Visual Arts Center (RFP #22/17/P) on December 1, 2022.

Santa Fe Arts Institute, dba as Managing Member of the Midtown Arts and Design Alliance, LLC (MADA, LLC) responded to RFP 23/17/P with a proposal on March 1, 2023. Pursuant to the RFP, the City established an unbiased Evaluation Committee to review and rank RFP Submission Packages based on points related to Evaluation Factors provided in the RFP. MADA, LLC provided written responses to questions from the Evaluation Committee on April 7, 2023, and an oral presentation to the Evaluation Committee on April 11, 2023. Based on the review of the Offeror’s RFP Submission Package, the Evaluation Committee determined that the Offeror

demonstrated experience, qualifications, and capacity to implement the Scope of Work and achieve the vision and goals articulated in the RFP related to the development and operation of the Project.

The Parties desire to enter this ENA, of mutually acceptable terms, provisions, and conditions to establish the terms for the disposition and development of the Project Parcel from the City to the Offeror for the redevelopment and operation of the proposed Project, which shall be pursuant to, and the subject of, a Disposition and Development Agreement (“DDA”) between the Parties, which shall be an outcome of the predevelopment due diligence tasks, studies, reports, investigations, plans, and other due diligence activities associated with this ENA.

ACTION REQUESTED:

The Evaluation Committee respectfully recommends that the Parties enter negotiations for the conditions, terms, and scope of work of an Exclusive Negotiations Agreement (the “ENA” or “Agreement”) to be considered for approval by the City’s Governing Body.

ATTACHMENTS:

- Draft ENA (Separate File)
- Summary of Contracts
- Procurement Checklist
- Certificate of Insurance
- Business Registration
- RFP #23/17/P and Amendments

Org 5256175
Object 471400

MIDTOWN SITE DEVELOPMENT

EXCLUSIVE NEGOTIATION AGREEMENT

This Exclusive Negotiation Agreement is entered into this ____ day of _____, 2023 by and between the City of Santa Fe, a municipal corporation (“City”), and the Selected Offeror, Santa Fe Art Institute (“SFAI”, “Offeror”) organized under the laws of the State of New Mexico, together, the Parties (“Parties”).

I. RECITALS

WHEREAS, the City owns certain real property comprising approximately 64-acres of land and buildings known as the Midtown Site (the “Midtown Site”) with a current address at 1600 St. Michaels Drive, Santa Fe, NM 87505, as illustrated in **Exhibit A**; and

WHEREAS, the City desires that the Midtown Site be redeveloped pursuant Midtown Redevelopment Plans, which are comprised of the Midtown Master Plan (the “Master Plan”) and the Midtown Community Development Plan (the “Community Development Plan”), approved by the City’s Governing Body on November 30, 2022, Resolution 2022-68, and January 25, 2023, Resolution 2023-5, respectively; and

WHEREAS, the Midtown Redevelopment Plans provide land use zoning and other design and development requirements, standards, and guidelines, as well as community development policies and priorities, that direct and guide all development of the Midtown Site; and

WHEREAS, based on the Community Development Plan, the City shall select Offeror(s) through a Solicitation Request for Proposals (“Solicitation”) and direct negotiations to redevelop certain land parcels within the Midtown Site; and

WHEREAS, the City commenced the implementation phase of redevelopment at the Midtown Site, which included issuing Solicitations to identify developers and operators of certain parcels; and

WHEREAS, the City issued a Solicitation for the redevelopment of a certain parcel at the Midtown Site, known as known as the Visual Arts Center and Barracks (the “Project Parcel”), as illustrated or described in **Exhibit A**, using an RFP #: 23/17/P (the “RFP”), dated December 1, 2022, which was due March 1, 2023 for the development and operation of the Midtown Arts and Design Alliance (the “Project”); and

WHEREAS, the Santa Fe Art Institute (SFAI) responded to the City’s RFP as Offeror and will be doing business as (dba) Managing Member of the Midtown Arts and Design Alliance (MADA) LLC; and

WHEREAS, pursuant to the RFP, the City established an unbiased Evaluation Committee to review and rank RFP Submission Packages based on points related to Evaluation Factors provided in the RFP; and

WHEREAS, the Evaluation Committee recommended the Award in connection with this Solicitation go to the Offeror based on the evaluation of the RFP Submission Package, which

includes the RFP Response dated March 1, 2023, the Oral Presentation dated April 27, 2023, and Request for Clarification responses dated March 15, 2023; and

WHEREAS, based on the review of the Offeror's RFP Submission Package the Evaluation Committee determined that the Offeror demonstrated experience, qualifications, and capacity to implement the Scope of Work and achieve the vision and goals articulated in the RFP related to the development and operation of the Project; and

WHEREAS, the Evaluation Committee respectfully recommended that the Parties enter negotiations for the conditions, terms, and scope of work of an Exclusive Negotiations Agreement (the "ENA" or "Agreement") to be considered for approval by the City's Governing Body; and

WHEREAS, the Evaluation Committee made additional recommendations regarding certain terms and conditions to be included in the ENA, which are included in herein; and

WHEREAS, the Offeror seeks to develop and operate the Project consistent with the RFP Submission Package, as may be further refined within the ENA period; and

WHEREAS, the Parties desire to enter this ENA, of mutually acceptable terms, provisions, and conditions for the transfer of the Project Parcel from the City to the Offeror for the development and operation of the proposed Project, which shall be pursuant to, and the subject of, a Disposition and Development Agreement ("DDA") between the Parties, which shall be an outcome of the predevelopment tasks, studies, reports, investigations, plans, and other due diligence activities associated with this ENA.

NOW THEREFORE, in consideration of the preceding Recitals, which shall be part of this ENA, and the mutual promises hereinafter set forth, the sufficiency of which are hereby acknowledged, the Parties agree, as follows:

II. DEFINITIONS

“**Agreement**” means this form of contract or Exclusive Negotiation Agreement.

“**Award**” means the final execution of the contract document or agreement.

“**City**” means the City of Santa Fe, New Mexico which in the solicitation and procurement context may act through the Finance Director, City Manager, or Governing Body.

“**Parties**” mean the City and the Selected Offeror, each a party to this ENA.

“**Deliverable**” means a report, document, plans, schedule, budget, or other items to be provided as a product or outcome of a process or activities, such as due diligence tasks.

“**Development Plans**” means a comprehensive package that typically includes a Development Program, Develop Schedule & Phasing Plan, Development Budget and Financing Plan, Design Plans, Due Diligence Reports, and other plans, applications, or documents regarding the development of a specific project.

“**Disposition and Development Agreement**” or “**DDA**” means an agreement entered between the City and a private developer pursuant to which the City sells or leases property to the developer and the developer agrees to develop the property in accordance with the agreement.

The Parties may enter a DDA resulting from the Scope of Work and activities associated with

this ENA. The DDA includes the terms and conditions for the disposition, design, development, and operation, among other requirements, of the Project.

“Disposition of Public Property” the disposition of public property by the City, either through sale or lease, shall be pursuant to New Mexico Statutes, Chapter 13, Article 6.

“Exclusive Negotiation Agreement” or **“ENA”** means this Agreement executed by and between the Parties. During an exclusive negotiation period, the Parties agree not to enter negotiations with any third parties with respect to the Project and Project Parcel.

“Good Faith” means the implied covenant of good faith and fair dealing, as a general presumption, that the Parties to this Agreement will deal with each other honestly, fairly, cooperatively, and in good faith, so as to not destroy the right of the other party or parties to receive the benefits and award of the Project and execution of a DDA.

“Midtown Site” means the city-owned site with an address at 1600 St. Michaels Drive, Santa Fe, NM 87505, within Section 34, T.17N., R.9E., N.M.P.M., in Santa Fe County, New Mexico, U.S.A.

“Non-Disclosure Agreement” or **“NDA”** an agreement between Parties to maintain confidentiality and not disclose certain proprietary, privileged, confidential, or information otherwise not subject to public disclosure.

“Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

“Performance Benchmarks” mean a touchstone or criterion in a schedule, timeline, or critical path that the Offeror has agreed to achieve in the performance and undertaking of the Scope of Work.

“Project” as defined in the Recitals of this Agreement and means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved, and project acceptance is given by the project executive sponsor.

“Project Site” as generally described in the Recitals of this Agreement to be surveyed and subdivided during the term of this ENA period or as a conditional term for the disposition and development of the subject site within the DDA.

“Right of Entry” shall be pursuant to an **Access License Agreement** granted by the City to the Offeror providing the Offeror with the legal right to enter upon City’s real property, the Project Parcel, for the specific purpose of undertaking due diligence activities associated with the Scope of Work, without being guilty of trespass.

“Scope of Work” or **“SOW”** means the area in this Agreement where the work to be performed is described. The SOW shall be pursuant to a schedule with benchmarks, touchstones, critical path timelines for the deliverables and end products that are expected to be provided by the performing party, the Offeror.

“Selected Offeror” means the Offeror, or Offerors, with whom the City negotiates contract terms for agreement, and is recommended by the Evaluation Committee for Award.

ARTICLE 1.

PURPOSE

1.1 Statement of Purpose The purpose of this Agreement is to provide for the preparation of the Development Plans, to be developed by the Offeror and approved by the City, and the negotiation of the terms and conditions upon which the Parties may enter a DDA for the Project Parcel (“Purpose”).

ARTICLE 2.

TERM

2.1 Effective Date. This Agreement shall be effective as of August 30, 2023 (“Effective Date”).

2.2 Initial Term. This Agreement shall commence on the Effective Date and continue for twelve months (12). The Initial Term represents the length of time that the Parties reasonably believe will be required to complete the Purpose of this Agreement.

2.3 Extended Term. If the Parties have not finally executed and delivered a DDA during the Initial Term, then either party may extend the Initial Term of this Agreement for four (4) additional months (“Extended Term”). Together, the Initial Term and any Extended Term are referred to as “Term”. A party shall exercise the right to extend the Initial Term by giving written notice thereof to other Party on or before the last day of the Initial Term. The City Manager, acting on behalf of the City, shall have the right to extend the Initial Term.

ARTICLE 3.

CITY RESPONSIBILITIES

During the Term of this ENA:

3.1 Exclusive Negotiations. The City shall negotiate exclusively with the Offeror regarding the Project and any DDA relating to the Project, and shall not solicit, market to, or negotiate with any other person, firm, or corporation regarding the Project or the Midtown Site, including the development, sale, or lease thereof.

3.2 Existing Leases and Tenants. Regarding any existing leases on the Project Site, other than with the Santa Fe Art Institute, the terms shall expire or may be terminated by the City within twelve (12) months of executing this ENA. If any tenancy or lease extension or amendments are considered, the Parties shall confer before extending or otherwise modifying the lease terms, which shall be considered if any lease term modifications benefit the Project.

3.3 Good Faith. The City shall act diligently, cooperate reasonably, and negotiate with the Offeror in good faith to carry out the Purpose of this Agreement. In that regard, the Offeror understands and agrees that by entering this ENA, the City is making no commitment to approve the Development Plans or enter a DDA with the Offeror. Furthermore, the City retains the right to exercise full discretion with respect to all acts, proceedings, hearings, and decisions relating to the Midtown Site, including all development and operation plans. The City will be acting in the interest of the public and will consider and evaluate decisions and approvals that benefit the Project and the City, as determined by the City. This may include financial support for environmental remediation as well as site activations during the ENA period.

3.4 Access to Information. Within a reasonable time after request, taking into account the complexity of the information requested, the City shall provide the Offeror with access to all information in the City’s possession relevant to the Scope of Work under this ENA, including maps, plats, leases, plans, and other information relating to the Project Parcel and preparation of the Development Plans pursuant to this ENA; provided however, that the City shall have no obligation to provide any information to the Offeror that is privileged, confidential, or otherwise not subject to public disclosure unless the Parties agree to share such information by entering a Non-Disclosure Agreement.

3.5 Access to Project Parcel. The City shall provide the Offeror with access to the Project Parcel with terms pursuant to an Access License Agreement for the purposes of undertaking the Scope of Work, as provided in this ENA in **Exhibit D**.

3.6 City’s Project Team. The City shall designate a project team in connection with this Agreement (“City Project Team”), which may be amended at the City’s sole discretion and shall be communicated to the Offeror. The City Project Team shall coordinate with the Offeror on matters subject to this ENA. The City Project Team shall include:

Name: Richard Brown
Title: Director, Department of Community and Economic Development
Role: Executive Decision-Maker

Name: Lee Logston
Title: Midtown Asset Development Manager, Office of Economic Development

Role: Project Manager, Consultant

Name: Daniel Hernandez

Firm: Proyecto

Role: Midtown Redevelopment Project Manager

3.7 General Cooperation. City agrees to reasonably cooperate with the Offeror in performance of the Scope of Work described below.

ARTICLE 4.

SCOPE OF WORK

During the Term of this ENA,

4.1 Role and Responsibility. The Offeror shall serve as the developer, and operator of the completed Project, to undertake and perform, at its sole cost and expense, the predevelopment activities described in this Article 4 (“Scope of Work”), and shall prepare the Development Plans for the Project, including the deliverables generally described below, which shall be submitted to the City during the Initial Term (“Deliverables”). Development Plans shall include, but not necessarily be limited to a Development Program; Development Schedule and Phasing Plan; Development Budget and Financing Plan, and Disposition Terms. Other Deliverables include Due Diligence Reports, Infrastructure Plans; Site and Building Plans; Master Plan Land Use Applications for Amendment, if required; Development, Ownership, and Management Entity Corporate Documents, and other documents or plans that may be required for the implementation

of the proposed Project (“Development Plans”). Offeror shall require third party contractors to submit reports certifiable to the City and Offeror.

4.2 Horizontal Development and Other Predevelopment Activities Coordination.

Offeror shall collaborate to the greatest extent possible to ensure horizontal development activities are aligned with the City’s planning, design, and construction of the main line infrastructure, and other public right of ways, including streets, sidewalks, open spaces, easements, and other related activities. Furthermore, the Offeror shall coordinate with the City regarding the implementation of the Midtown Master Plan on specific Project Parcels with an objective of ensuring consistency with development and design guidelines, intents, and requirements described in the Midtown Master Plan.

4.3 Development Plans Amendments. Development Plans shall be consistent with the

proposed project described in the RFP Submission Package. Significant amendments, as determined at the City’s discretion, to the proposed Project shall be requested by the Offeror in writing for City consideration and approval, which shall not be unreasonably withheld, particularly if the requested amendment(s) benefits the Project or the City. Offeror shall act diligently, cooperate reasonably, and negotiate in good faith with the City to refine the Development Plans to meet mutually agreed upon real estate development, community development, land development, investment objectives, and other goals and requirements described in the Midtown Redevelopment Plans. The Parties understand that budgets and schedules may require amendments due to unforeseen conditions that may cause changes in projected costs or timelines.

4.4 Development Program. Offeror shall prepare a detailed development program for the Project Parcel (“Development Program”). The Development Program shall provide the implementation of all uses within the Development Program and by phase, including (a) type of space, such as commercial (type) and residential (type, bedrooms, tenure), and building height (feet and number of floors/stories); (b) area or square footage of open space (public and private), easements, horizontal infrastructure, other.

4.5 Development Schedule and Phasing Plan. The Development Plans shall prepare a detailed Schedule and Phasing Plan for the Project (“Schedule and Phasing Plan”). The Schedule and Phasing Plan shall provide a timeline for implementing the entire Development Program and by phase, including (a) the specific activities to be undertaken in each phase of the Project; and, (b) the projected date of commencement and completion of each activity with critical benchmarks (the “Performance Benchmarks”) at each phase, including benchmarks for securing financing for the proposed Project.

4.6 Development Budget and Financing Plan. Offeror shall prepare a detailed development budget and financing plan for the implementation of the Development Program (“**Development Budget and Financing Plan**”). The Development Budget and Financing Plan shall provide the sources and uses (all projected sources may be listed by name of lending or investing institution, government agency, foundation, or donor, if known) for implementing the entire Development Program and by phase, including (a) total development costs for completing the project and a breakdown of cost for each phase specifying the projected cost of each component of each phase,

including, but not limited to, the costs of infrastructure, adaptively reusing existing buildings, any new construction, open space, and infrastructure and public right of ways.

4.6.1 Predevelopment Budget and Secured Financing Prior to DDA. Offeror shall prepare, or refine proposed budgets with the RFP submission, a financing plan to raise development capital for all predevelopment activities prior to construction. If phased development is proposed, the Offeror shall prepare a financing plan for phase one. At least 25% of the financing for phase one, if applicable, must be secured as indicated by executed preliminary commitment letters from financial sources prior to executing the DDA. In addition, the Offeror shall develop a detailed capital raise plan, with risk analysis, for the remaining financing, as well as for construction to fund project completion.

4.6.2 Operating Budget. For each building, Offeror shall prepare, or refine proposed budgets with the RFP submission, a preliminary operating budget showing expenses and income to ensure the financial stability of each proposed development project.

4.7 Disposition Pricing and Terms. The Offeror shall prepare a detailed property valuation analysis showing the basis for an estimated fair market value of the Project Parcel, including land and any existing improvements and structures. The property shall be disposed of in an as-is condition. The Offeror's analysis shall include a comparison between the estimated fair market value, any existing income to the City generated from the property, and the financial proceeds to the City generated from purchase or lease of the Project Parcel based on the operating income from the Development Program, as well as Project costs associated with horizontal and vertical development and improvements that directly affect property valuation. Offeror shall act

diligently, cooperatively, transparently, and negotiate in good faith with the City to refine the property value and the Development Budget and Financing Plan to establish a mutually agreeable price, terms, and conditions for the purchase or lease of the Project Parcel. In negotiating the terms of purchase or lease of the Project Parcel, the Parties will act in good faith to facilitate the financing and implementation of the Project. The Parties understand that the Development Budget and Financing Plan may be updated as frequently as every three months to reflect evolving values and costs for completing the Project.

4.8 Existing Furniture, Finishes, and Equipment. Offeror shall coordinate with the City, particularly the Office of Arts and Culture, to ensure that the reuse or disposition of existing furniture, finishes, and equipment (FF&E) is consistent with the City's regulatory requirements and policies for said FF&E. The City prefers that FF&E designed specifically for the building be repurposed as part of the Development Program. Said FF&E shall be valued and included in the Development Budget and DDA terms. Any FF&E that must be moved off-site shall be at the sole expense of the Offeror.

4.9 Community Development Plan. Offeror shall secure Letters of Intent (LOI) from partners that will provide community development program related activities, including but not limited to those listed in the Offeror's RFP submission. For example, partners will include non-profit, for-profit, and educational partners fulfilling programmatic commitments described in the Offeror's RFP submission in response to implementing strategies that achieve goals stated in the Midtown Community Development Plan. Partners in this context do not necessarily include members of the real estate development team providing technical expertise and professional services related to

the real estate Development Program. The LOI shall contain, at a minimum, a description of the services that will be provided, the term of service, and the parties responsible for implementing the services. The LOI shall be on the partner entity's letterhead and signed by an authorizing person of said entity.

4.10 Due Diligence Reports Offeror shall perform all customary, reasonable, or required professional development due diligence activities relating to the developing and operating the Project including the preparation and submission to the City of reports and plans regarding site conditions to the extent deemed necessary by Offeror, including survey, geotechnical, civil engineering; environmental; infrastructure; mechanical, electrical, plumbing, and structural engineering; historic resource (“**Due Diligence Reports**”).

4.10.1. Project Parcel Survey. Offeror shall provide survey, or coordinate with the City's surveyor, to ensure consistency with the legal description and plat of the Project Parcel that will be purchased or leased pursuant to the DDA.

4.11 Legal Entitlements. Offeror shall prepare and submit to the City for review and approval a Memorandum detailing any proposed Amendments to the Midtown Master Plan (Amendments to the Midtown Master Plan Memorandum). The Offeror will provide a schedule for developing and applying for the amendments to the Master Plan, which may occur after approval of the Disposition and Development Agreement. The Parties shall work collaboratively to finalize the amendments to ensure consistency with the Master Plan and to meet the programmatic and functional requirements of the proposed development. The Offeror is responsible for submitting applications required to secure legal entitlements necessary to implement the Development Plans,

including any amendments to the City’s General Plan or the Midtown Master Plan. All such applications shall meet the criteria for approval under applicable laws and regulations. Offeror shall coordinate with the City in preparing and filing such applications, including complying with all requirements relating to the submission of documents, applications, and public hearings. Offeror shall obtain a final administrative decision on all such applications. City shall reasonably assist Offeror in its efforts to obtain said legal entitlements.

4.12 Disposition and Development Agreement (DDA) Execution Payment. At the completion of the ENA term, as may be extended, and upon execution of the negotiated and approved DDA, the Selected Offeror shall deposit the full amount of the stated DDA purchase price or annual lease amount, or other agreed upon phased purchase or lease payment term stated in the DDA, into an escrow account or other agreed upon account type. The final disposition terms, including purchase price or annual lease amount, phased or otherwise, and all associated transaction fees, and the closing schedule for disposition, shall be stated in the DDA.

ARTICLE 5.

EFFECTUATING AND IMPLEMENTING THE ENA

5.1 Good Faith Deposit. Within seven (7) days after the Effective Date of the ENA, the Offeror shall wire transfer to the City in the amount of \$7,500.00 (seven thousand, five hundred dollars) satisfying the one-time fee pursuant to the RFP (“Good Faith Deposit”). The Good Faith Deposit shall be non-refundable and may be used by the City to perform necessary due diligence activities and analysis during the ENA period with the Selected Offeror.

5.2 ENA Budget. The Offeror shall submit an ENA Budget, for City approval, for the commencement and completion of producing the Development Plans, including all Deliverables (“ENA Budget”). The ENA Budget shall establish cash flow Performance Benchmarks by which each identified funding source shall be secured and available to undertake and complete each activity in the Scope of Work, as set forth in Article 4, and pursuant to the ENA Schedule. The ENA Budget shall be made part of and incorporated by reference into this ENA as **Exhibit B**. If, in advance of failing to meet a Performance Benchmark, the Offeror notifies the City in writing and seeks to negotiate in good faith an amendment to the ENA Budget, then the Offeror shall not be in default under this ENA for a failure to meet any Performance Benchmark. Failure to meet Performance Benchmark shall be considered a default and cause for termination of this Agreement pursuant to Article 6 of this Agreement.

5.3 ENA Schedule. The Parties shall submit an ENA Schedule, for City approval, for the commencement and completion of the producing and submitting the Development Plans, including all Deliverables (“ENA Schedule”). The ENA Schedule shall establish Performance Benchmarks by which each activity that is included in the Scope of Work, as set forth in Article 4, shall be completed. The ENA Schedule shall be made part of and incorporated by reference into this ENA as **Exhibit C**. If, in advance of failing to meet a Performance Benchmark, the Offeror notifies the City in writing and seeks to negotiate in good faith an amendment to the ENA Schedule, then the Offeror shall not be in default under this ENA for a failure to meet any Performance Benchmark. Failure to meet Performance Benchmark shall be considered cause for termination of this Agreement.

5.4 Developer Team. Offeror shall designate a developer team to prepare the Development and related Deliverables (“**Developer Team**”). The Developer Team shall include, at a minimum, the Offeror’s executive decision-maker, senior project manager, and assistant project manager, as follows:

Name: Jamie Blosser
Title: SFAI Executive Director/ CEO
Role: Executive Decision-Maker

Name: Ray Landy
Title: SFAI Board of Trustees, Midtown Committee Chair
Role: Senior Project Manager

The Developer Team shall have direct responsibility for managing the Scope of Work and day-to-day activities under the ENA and to coordinate regularly with the City’s Project Team in successfully undertaking and completing the Scope of Work. The Offeror’s Project Manager shall report to the Executive Decision-Maker, who shall direct and control in the quality, risks, and performance of this ENA. The Developer Team members shall be the consistent identified in the Submission Package, or as otherwise submitting in writing to the City for review and approval, which shall not unreasonably be withheld.

5.4.1 Development, Ownership, Management Corporate Entities. Offeror shall provide City with regular updates regarding establishing legal corporate entities and

composition of Project governance structures including Project developer, owner, and manager entities for City review and approval, which shall not be unreasonably withheld.

5.5 Management of the ENA Development Plans and Deliverables

5.5.1 Regular Progress Reports. Offeror shall submit written progress report to the City's Project Team no less than once every thirty (30) days, detailing the status, progress, risks, and successes toward completion of each Performance Benchmark ("Progress Reports").

5.5.2 Weekly Conferences/Meetings. Offeror's Project Managers and the City's Project Managers and, as necessary, their respective team members, shall confer by telephone, videoconferencing, or in-person, on a regular basis to coordinate Scope of Work activities. Frequency will be determined by project phase and need.

5.5.3 Public Engagement, Communications, and Hearings. Offeror is responsible for determining the level and type of public engagement in creating and informing the Development Plans, and is responsible for implementing public engagement activities, communications, and presentations whether they be to non-profit organizations, media outlets, or other citywide or community groups. Offeror acknowledges and agrees that all costs incurred by the Offeror to undertake public engagement and hearing activities are the responsibility of the Offeror. Public hearings may be required for approvals and project status reports to the City's Governing Body, City Council Committees, or other governmental or semi-governmental bodies. The Parties shall coordinate communications

and collaborate diligently regarding all public engagement activities, communications, and public hearings associated with the Project and this ENA Scope of Work.

5.5.4 Delays and Difficulties. Both Parties shall promptly report to the other Party any delays in completing any Performance Benchmarks and any difficulties associated with satisfactory performance of any related activity. The Offeror shall submit feasible and reasonable solutions to address delays and difficulties for the City's review and consideration. If after such coordination and consideration, the delay or difficulty is not resolved, it shall be reported to the Parties' Executive Decision-Makers, who shall confer and attempt to mutually agree upon a resolution. Both Parties shall document in writing all such delays, difficulties, issues, resolutions, and agreed upon actions. Said documentation shall be incorporated into the next regular Progress Report(s).

5.6 Approvals not Advice. Offeror understands and agrees that approval by the City of actions taken by the Offeror in connection with preparing the Development Plans and other Deliverables shall not constitute any advice or recommendation as to the matter approved, and the City shall have no liability to Offeror based upon or proximately caused by any such approval. Offeror further understands and agrees that any such approval, including any review or comments by the City, or third parties engaged by City, shall not relieve Offeror of the sole responsibility for developing, performing, and managing all activities within the Scope of Work.

5.7 Right of Entry. During the Term of this ENA, the City grants the Offeror, including its employees, agents, representatives, consultants, and contractors, the right to enter the Project Parcel for the Purpose of this executing this ENA and the associated Scope of Work. The Right of

Entry shall be exercised only in accordance with the Access License Agreement (the “Access License Agreement”), which shall be made part of and incorporated by reference into this ENA as **Exhibit D**. Prior to exercising the Access License Agreement, Offeror shall provide the City with evidence, in the form of certificates of insurance and copies of endorsements, documenting that each consultant and contractor procured by the Offeror that enters the Project Parcel shall have in effect reasonable public liability insurance, as provided in this ENA. Notwithstanding anything to the contrary in this Agreement, Offeror shall not conduct any invasive third party testing on Project Parcel without giving prior written notice to the City of the specific activity or scope of work to be undertaken (including, with respect to any invasive testing; a written plan for such testing; the name of the firm to perform such activity and their qualifications; signed contract between the Offeror and the contractor; evidence of contractor’s required insurance.

5.8 Insurance. Offeror shall, at its own cost and expense, obtain and maintain the insurance coverages described in **Exhibit E (“Insurance Requirements”)** and **Exhibit F (“Additional Insureds Requirements”)** made part hereof and incorporated by reference herein. City shall be responsible to maintain building and site insurance, as owner of the property, and shall provide proof of insurance to the Offeror.

5.9 Negotiation of DDA. During the Term of this ENA, the Parties shall negotiate the proposed terms and conditions of any DDA to be submitted to the City’s Governing Body for review and consideration. The DDA will set forth all the terms, provisions, and conditions for the disposition and development of the Project Parcel and development and operation of the Project. The Parties intend that the Development Plans shall be exhibits to, made part of, and be incorporated by

reference in the DDA. In negotiating a DDA, the Parties expect to address matters that may not be covered by the Development Plans but are significant and relevant to effectuating and implementing the Development Plans described in the DDA.

5.10 Completion of ENA Period. The Parties shall each determine whether the Project is feasible, conclude all negotiations, and if agreed upon, execute, and deliver a DDA by the end of this ENA Period.

ARTICLE 6.

TERMINATION OF ENA

6.1 Failure to Pay Deposit. If Offeror fails to timely pay the Good Faith Deposit to the City in accordance with Section 5.1 above, this Agreement shall automatically terminate without further action by either Party.

6.2 Execution of DDA. If a DDA is executed by the Parties relating to all or part of the Project Parcel during the Initial Term or any Extended Term, then this ENA shall terminate upon execution of said DDA with respect to the portion, or all, of the Project Parcel subject to the DDA.

6.3 Discretionary Termination by a Party. If either Party concludes at any time in its sole discretion that (a) the Project is not feasible, or (b) that the negotiations are unlikely to result in the execution of mutually agreeable DDA, then such Party may terminate this Agreement by delivering written notice thereof to the other Party. The Parties shall work in good faith to find solutions and strategies that avoid a termination pursuant to this clause.

6.4 Expiration of Term. Unless sooner terminated as provided in this Article 6, this Agreement shall terminate upon expiration of the Term hereof without further action by either Party.

6.5 Termination for Default. Prior to expiration of the Term of the ENA, the City, in addition to the exercise of any other rights or remedies it may have, may terminate this Agreement upon the occurrence of a material default by the Offeror, and Offeror's failure to cure such default within thirty (30) days after notice thereof from the City. Default shall be evidenced by Offeror's failure to timely or satisfactorily perform its material obligations under this Agreement, including, Articles 4 and 5, above.

6.6 Force Majeure. The Parties enter this Agreement recognizing that the duty to collaborate, coordinate, and negotiate in good faith and communicate regarding obstacles to performance is paramount. Should unpredicted, unforeseen, acts of nature, disaster, or emergency, beyond the reasonable control of either of the Parties, cause either party to be unable to perform, the relevant Party shall alert the other as soon as possible and shall mitigate the damages to the other Party, including the consideration of amendments to this Agreement to allow performance. If amending the Agreement to address the inability to perform is not possible, the affected Party may terminate this Agreement without further obligations.

ARTICLE 7.

GENERAL TERMS

7.1 Limitation on Effect of Agreement. This Agreement shall not obligate the City or Offeror to enter a DDA for the disposition or development of the Project Parcel. Offeror understands and agrees that any proposed DDA resulting from the negotiations between the Parties pursuant to this

Agreement shall become effective only if and after such DDA has been considered and approved by the City's Governing Body, acting in its sole and absolute discretion, and executed and delivered by both City and Offeror.

7.2 Third Party Expenses. The Offeror acknowledges and agrees that all third party expenses incurred by the Offeror to undertake and complete the Scope of Work, including submitting the Deliverables, associated with this ENA, and including procuring and obtaining third party studies, plans, and reports with respect to the Project including, without limitation, all due diligence studies, assessments, and tests, and all land planning and other consulting documents related to the proposed Project, are the sole responsibility of the Offeror.

7.3 Distinction from Regulatory Authority of City. Offeror understands and agrees that this Agreement does not indicate and does not imply that the City, acting as a regulatory or permitting authority, has hereby granted, or is obligated to grant, any approval or permit that is required by law for the disposition of the Project Parcel or the development of the Project as contemplated by this Agreement.

7.4 Survival of Terms. All provisions of this Agreement which by their nature should survive the termination or expiration of this Agreement in its entirety shall so survive, including, but not limited to Articles 5, 6, and 7.

7.5 Limitations on Liability. In any action arising out of, based on, or relating to this Agreement, including but not limited to any action for breach of the ENA, the sole and exclusive remedy of the Offeror shall be the termination of the ENA. In no event shall the Offeror be entitled

to the recovery of any damages for any costs or expenses it incurs, any loss from any business opportunity it forgoes, or any amounts it expects to gain, including without limitation any future or potential profits, by reason of this Agreement. In any such action, neither party shall be entitled to recover any consequential damages, treble, or punitive damages. In any dispute between the Parties arising out of this Agreement, each party shall bear its own costs and attorneys' fees.

7.6 Waiver of Lis Pendens. It is expressly understood and agreed by the Parties that no *lis pendens* shall be filed by any Party, including any person, firm, or corporation contracting with a Party with respect to this Agreement, including any act, omission or dispute arising from it.

7.7 Exclusive Venue. If an action is filed by either Party arising out of, based on, or in any way relating to this Agreement, the Parties agree that such action shall be filed, and the case tried exclusively in the District Court for the First Judicial District, County of Santa Fe, State of New Mexico.

7.8 Documents, Records, and Reports

A. All documents, records, and reports provided to or made available to the City under this Agreement shall be made certifiable to the City. The City shall have ownership of all work product created under the ENA and DDA for the Visual Arts Center related to reports, assessments and studies of existing building systems, the operations of these existing systems and modifications to existing as-builts. Such work products expressly do not include the intellectual property in SFAI's, the architects, the engineers, the developers and our tenant partners work products including programming,

designs, 3D building modeling, digital and visual materials, marketing materials, renderings, cost estimates, construction methodologies, and financial modeling. This provision is intended to protect the City's interest in retaining and using documents and reports regarding the state of the Midtown Site and its land, buildings, infrastructure, including third party reports regarding land and building conditions and land plans; it does not apply to confidential or proprietary records or documents created by, or unique to, the Offeror or its direct development or investment partners. If the Offeror provides such confidential records to the City, the Offeror shall clearly mark them "confidential".

B. The City is a public body subject to the New Mexico Inspection of Public Records Act ("IPRA"). The IPRA generally provides that written documents retained by the City are subject to disclosure upon the request of any third-party, except as otherwise provided in the IPRA.

C. If the Offeror disagrees with a City assessment that a record must be produced pursuant to IPRA, the Offeror shall be responsible, at its sole cost and expense, to take any action required by law to limit or prohibit the disclosure under the IPRA of any documents and records provided to the City under this Agreement.

7.9 No Assignment The City is entering into this Agreement based upon the Offeror's RFP Submission Package, including the representations therein with respect to the experience, qualifications, and capacity to successfully complete the proposed Project. The City understands that named principals of the Offeror identified in the RFP Submission Package will be personally involved the performance of this Agreement. Further, the Offeror understands that but for the

direct involvement of Offeror as a corporate entity and the Developer Team identified in the RFP Submission Package, the City would not enter into this Agreement. The Parties therefore agree that the Offeror shall not sell, assign, or transfer any of its rights or delegate any of its duties or obligations under this Agreement to any person, firm or entity, directly or indirectly, including by a change in the ownership, control, or management of the Offeror without the prior express written consent of the City which the City may withhold in its sole and absolute discretion.

7.10 Indemnification. Offeror shall indemnify, hold harmless, or insure the City, including its officers, employees, and agents, against claims, liability, damages, losses and costs arising from any personal injury or damage to personal property, including attorney fees, to the extent that any such claim, liability, damages, losses, or costs arise out of, or are proximately caused by any act or omission of the Offeror, its officers, employees, agents, representatives, consultants or contractors in furtherance of this Agreement. Nothing in this Agreement shall be construed as an indemnification by the City for any loss, damages, injury, or death arising out of, or proximately caused, in whole or part, by the City, its officials, employees, attorneys, agents, representatives, consultants or contractors. Nothing herein shall obligate or be construed to obligate the City to provide any indemnity, insurance, or other protection for or on behalf of Offeror or any third party.

7.11 Relationship of the Parties. Nothing in this Agreement, or in the use of the term “Public-Private Partnership” by any person in connection with or in reference to this Agreement, the Midtown Site, the Project Parcel, or the Project shall make, or be deemed or construed to make, the Parties joint venturers, partners, agents, a joint enterprise, employer and employee, or lender and borrower. Offeror shall have no authority to hire any person as an employee or agent of the

City for any purpose. Neither Offeror nor any of its affiliates, members, directors, officers, employees, agents, representatives, consultants, or contractors shall represent or hold themselves out as an employee, agent, or person or entity acting for or on behalf of the City.

7.12 Real Estate Commission. The Parties, the City and Offeror, each represent that it has not engaged any broker, agent, or finder in connection with this Agreement, including any transaction described herein, and that no commission is due or owing to any person, firm or entity by reason of this Agreement or any subsequent DDA between the Parties. This Agreement is made and entered into solely for the benefit of the Parties, and no other person shall have any right of action under this Agreement.

7.13 Notices. Any and all notices or other communications required or permitted to be given under this Agreement shall be in writing and either (a) personally delivered, in which case notice shall be deemed given upon receipt; (b) sent by electronic mail, in which case notice shall be deemed given upon the transmission of such email, if transmitted on a business day before 5:00 p.m. Mountain Standard Time (MST), otherwise on the next business day, and provided that no error message is received by the sender, and provided further that upon request by the sender of an email, the recipient shall reply confirming receipt of the same; (c) sent via any nationally recognized overnight courier service with provision for proof of delivery, in which case notice shall be deemed given on the next business day after the sender deposits the same with such courier service; or (d) sent via the United States Mail, postage prepaid, certified mail, return receipt requested, in which case notice shall be deemed given on the date of delivery as shown on the return receipt, or the date of the addressee's refusal to accept delivery as indicated by the United

States Postal Service. In any case, all such notices or other communication shall be addressed to the following Parties:

OFFEROR

CITY

ADDRESS:

ADDRESS:

Mailing: Midtown Arts and Design Alliance, PO Box 24044, Santa Fe, NM 87502-4044

City Hall
200 Lincoln Ave
Santa Fe, NM 87501

Physical: 1600 St. Michael's Drive, #31, Santa Fe, NM 87505

CONTACT/ ATTENTION:

CONTACT/ ATTENTION:

Jamie Blosser

Lee Logston

EMAIL/PHONE NUMBER:

EMAIL/PHONE NUMBER:

jblosser@sfai.org
505.424.5050 Ext. 4

lrlogsston@santafenm.gov
505-955-6914

COPY (CC):

COPY (CC):

Any Party may change the address for notice from time to time by giving notice to the other Party in writing in the manner provided above; provided, however, that notice of any such change shall be effective only upon actual receipt by the other Party.

7.14 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico, without reference to, or application of any of its choice of law provisions.

7.15 Entire Agreement. This Agreement and the exhibits and documents incorporated by reference, including but not limited to the Offeror's RFP Submission Package, constitute the entire agreement of the Parties regarding the subject matters of this Agreement. No prior oral or written understandings or agreements of the Parties shall be of any force or effect. This Agreement shall be modified or amended only in writing, duly executed by the Parties.

7.16 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. This Agreement may be executed and delivered by the exchange of electronic facsimile copies, .pdf, or other electronic image files of counterparts of the signature page, which shall be considered the equivalent of an original signature page for all purposes.

7.17 Conflict of Interest. Offeror represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, that conflicts in any manner or degree with the performance or services required under this Agreement. Recusal from an existing role to avoid a potential conflict is consistent with this representation and warranty. For example, the Parties acknowledge that associates or members of the Offeror are in business in other areas of Santa Fe and those ongoing activities are anticipated to further, rather than conflict with, performance required under this Agreement. Should a conflict arise, the Offeror will immediately notify the City to determine a resolution.

7.17.1 Offeror 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, NMSA 1978, § 10-16-1 through 10-16-18.

7.17.2 Offeror's representations and warranties in this Section are material representations of fact upon which the City shall have relied when this Agreement is executed by the Parties. Offeror shall provide immediate written notice to the City if, at any time during the Term of this Agreement, it learns that any representation and warranty in this Section was erroneous in any material respect on the Effective Date or becomes erroneous in any material respect by reason of changed circumstances. If it is later determined that any representation and warranty of the Offeror herein was erroneous in any material respect on the Effective Date, or subsequently becomes erroneous in any material respect by reason of changed circumstances, the City, in addition to other rights and remedies it may have and notwithstanding anything to the contrary in this Agreement, may immediately terminate the ENA.

7.17.3 All terms defined in the Governmental Conduct Act shall have the same meaning in this Section.

7.18 Non-Discrimination. Offeror shall not discriminate in any way against any person based on age, sex, race, color, religion, sexual orientation, disability, ethnicity, or national origin in the performance of, or in any activity relating to, this Agreement.

7.19 Authorization to Execute Persons signing this Agreement represent that they are duly authorized to execute and deliver this Agreement on behalf of the party named herein, and that to the knowledge of such person this Agreement is binding upon such party in accordance with its terms.

IN WITNESS WHEREOF, the parties hereto have executed this Exclusive Negotiation Agreement as of the Effective Date.

OFFEROR:

Santa Fe Art Institute, a 501c3 non-profit corporation

Date: Aug 9, 2023

By: *Jamie Blosser*
Jamie Blosser (Aug 9, 2023 14:04 MDT)

Name: Jamie Blosser

Title: Executive Director / CEO

CITY:

City of Santa Fe, New Mexico, a Municipal Corporation of the State of New Mexico

Date: _____

By: _____

Name: _____

Title: _____

Attest:

Kristine Bustos Mihelcic, City Clerk

City Attorney's Office:

Patricia Feghali

Patricia Feghali (Aug 9, 2023 13:54 MDT)

Assistant City Attorney

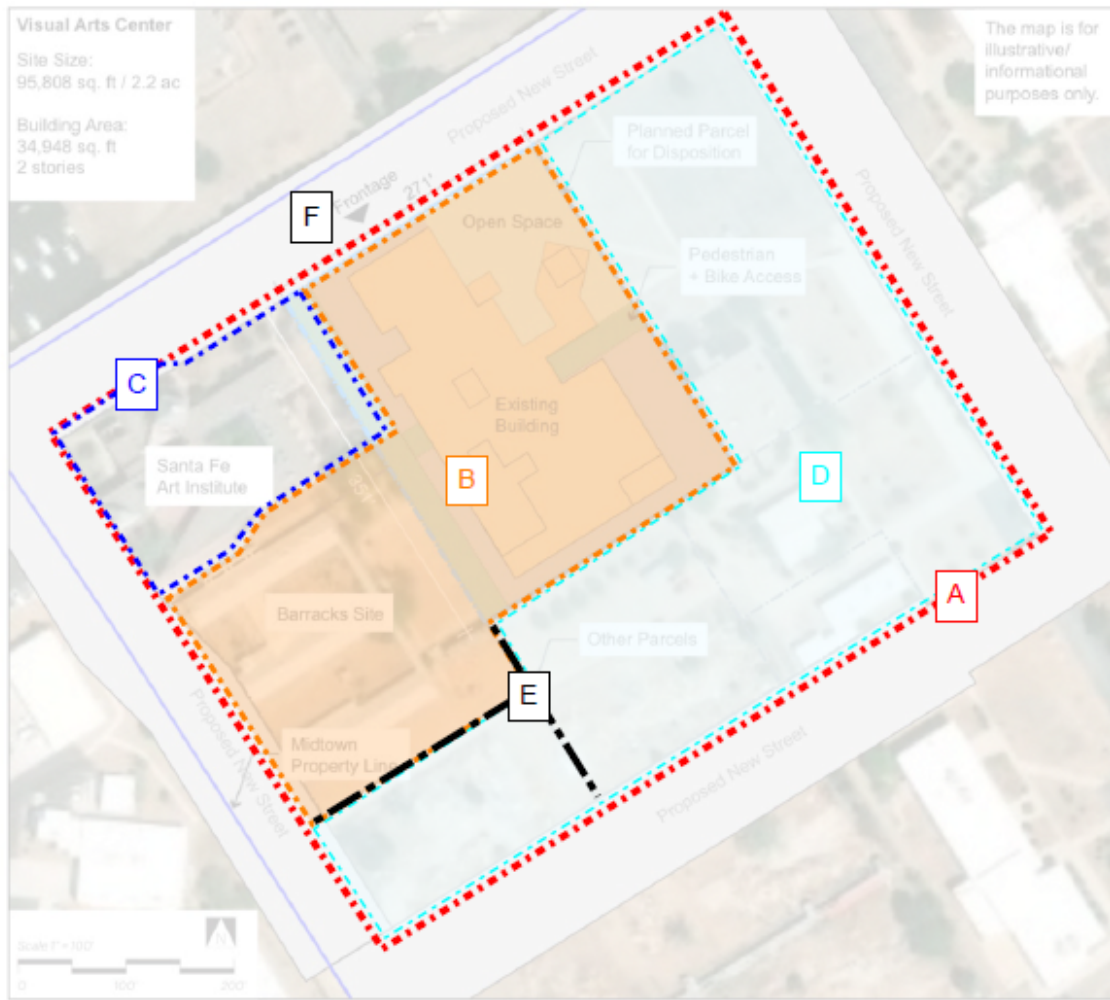
Approved for Finances:

Emily Oster, Finance Director

EXHIBIT A

THE MIDTOWN SITE AND PROJECT PARCEL

PROPOSED STUDY AREA BOUNDARY DURING ENA PHASE



- A** PRIMARY STUDY BOUNDARY TO EXTEND BEYOND DRAWN BOUNDARY IN RFP TO INCLUDE UP TO CURB OF FUTURE SIDEWALK (IN COORDINATION WITH FUTURE SURVEY WORK AND CITY'S INFRASTRUCTURE PLANNING).
- B** PHASED DEVELOPMENT TO INCLUDE VAC, BARRACKS, AND INTERSTITIAL LANDSCAPE SPACES.
- C** SFAI LEASE AGREEMENT BOUNDARY TO BE HONORED IN BOUNDARY DEFINITIONS OF ENA.
- D** FUTURE DEVELOPMENT BY OTHERS.
- E** PROPOSED FUTURE PARCEL BOUNDARIES TO BE NEGOTIATED THROUGH THE ENA PERIOD TO ENSURE THAT FUTURE BUILDING FOOTPRINTS ARE FEASIBLE BASED ON DESIRED USES.
- F** BOUNDARY DOES NOT INCLUDE PARKING OR HORIZONTAL INFRASTRUCTURE AS PART OF CITY'S SOW.

PREPARED BY MASS
DESIGN GROUP
July 27, 2023

EXHIBIT B

ENA BUDGET WITH PERFORMANCE BENCHMARKS

PRE-DEVELOPMENT/ SOFT COSTS DURING ENA PHASE	2023	2024			Total
	Q4	Q1	Q2	Q3	
Appraisal	\$ 5,000				\$ 5,000
Architectural/ Engineering	\$ 67,000	\$ 30,000			\$ 97,000
Energy Infrastructure Analysis	\$ 5,000				\$ 5,000
Inspections	\$ 15,000				\$ 15,000
Capital Campaign Costs	\$ 15,000	\$ 50,000			\$ 65,000
Construction Estimating Costs	\$ 5,000	\$ 7,500			\$ 12,500
City Costs/ ENA Execution	\$ 7,500				\$ 7,500
Development Advisory Services	\$ 15,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 45,000
Governance and Visioning Convening	\$ 7,000				\$ 7,000
Legal					\$ -
Establish MADA LLC	\$ 1,000				\$ 1,000
Governance Modeling	\$ 2,000	\$ 3,000			\$ 5,000
DDA Negotiations			\$ 5,000		\$ 5,000
Project Management	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 80,000
Subtotal	\$ 164,500	\$ 120,500	\$ 35,000	\$ 30,000	\$ 350,000
CONTINGENCY 10%	\$ 16,500	\$ 12,000	\$ 3,500	\$ 3,000	\$ 35,000
TOTAL	\$ 181,000	\$ 132,500	\$ 38,500	\$ 33,000	\$ 385,000
	\$ 181,000	\$		204,000	\$ 385,000

EXHIBIT C

ENA SCHEDULE WITH PERFORMANCE BENCHMARKS

Following Page

Task	Start Date	End Date	Duration	Q3			Q4			Q1			Q2			Q3		
				Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Execute ENA/ Start Project	06/19/23	08/30/23	52d	[Bar]														
Benchmark: SOW/ Signed contracts with development team	08/31/23	09/27/23	20d			[Bar]												
BUILDING/SITE Information Gathering/ Visioning/ Programming Phase	08/31/23	12/13/23	75d	[Bar]														
Gather all materials, information	08/31/23	09/27/23	20d	[Bar]														
Visioning Workshop	08/31/23	09/06/23	1w	[Bar]														
Space Planning/ Tenant Needs	09/07/23	10/04/23	4w	[Bar]	[Bar]													
Site and building inspections/ reports	09/28/23	10/25/23	20d			[Bar]	[Bar]											
Engineer Reports	10/26/23	11/08/23	2w				[Bar]	[Bar]										
Building/ Site Recommendations and Space Program	09/07/23	11/08/23	9w	[Bar]														
Present to Tenant Partners	11/09/23	11/15/23	1w				[Bar]											
Energy Infrastructure Analysis	11/09/23	12/13/23	25d				[Bar]	[Bar]										
Programming Phase Cost Estimate	12/14/23	12/27/23	2w							[Bar]								
Complete Concept Plan including MADA approvals, presentations to tenant partners	12/14/23	01/24/24	6w							[Bar]	[Bar]							
Concept Phase Cost Estimate INCLUDING CONSTRUCTION PHASING, if applicable	01/25/24	02/21/24	4w								[Bar]	[Bar]						
OPERATING BUDGET	11/09/23	12/13/23	25d	[Bar]														
Obtain estimates from vendors	11/09/23	12/06/23	4w				[Bar]	[Bar]										
Determine taxes, bond, insurance costs & exemptions	11/09/23	12/06/23	4w				[Bar]	[Bar]										
Determine Preliminary Staffing Needs	11/09/23	12/06/23	4w				[Bar]	[Bar]										
Refine Operating Budget	12/07/23	12/13/23	1w					[Bar]										
FINANCING/ CAPITAL RAISE	08/31/23	03/27/24	150d	[Bar]														
Land Valuation	11/09/23	12/06/23	20d					[Bar]										
Financial Modeling/ Plan	08/31/23	01/03/24	90d	[Bar]														
Preliminary research and meetings - appropriations, govt grants, tax credits, NMTC, foundation matching grants	08/31/23	11/22/23	12w	[Bar]														
Testing	11/23/23	12/27/23	5w					[Bar]	[Bar]									
Preliminary Loan Amount/ Commitment	12/14/23	01/03/24	3w						[Bar]									
Capital Campaign	08/31/23	03/06/24	135d	[Bar]														
Preliminary Visual/ Written Materials	11/09/23	12/06/23	4w				[Bar]	[Bar]										
Informal / Soft Launch	12/07/23	02/28/24	12w							[Bar]	[Bar]	[Bar]						
Interview / Hire Capital Campaign Consultants - Feasibility	08/31/23	10/25/23	8w	[Bar]														
Complete Strategic Planning for Capital Campaign	12/28/23	02/14/24	7w							[Bar]	[Bar]	[Bar]						
Revise campaign strategy based on updated cost estimate	02/22/24	03/06/24	2w									[Bar]	[Bar]					
Prepare visual materials: renderings, etc	01/25/24	02/07/24	2w								[Bar]	[Bar]						
Printed materials/ messaging	02/08/24	02/21/24	2w									[Bar]	[Bar]					
Launch Capital Campaign	02/22/24	02/28/24	1w									[Bar]	[Bar]					
Refine Pro Forma and Underwriting Criteria	01/04/24	03/27/24	12w							[Bar]	[Bar]	[Bar]						
Benchmark: Source of Funds/ Plan for Securing Funds to City	01/04/24	01/31/24	4w								[Bar]	[Bar]						
GOVERNANCE	06/19/23	06/10/24	255d	[Bar]														
Research Precedents	06/19/23	10/09/23	16w	[Bar]														
Develop Scenarios for MADA LLC	10/10/23	11/06/23	4w				[Bar]											
Convene Facilitated Discussion with tenant partners - LOEBS	11/16/23	11/27/23	8d					[Bar]										
Benchmark: Signed LOIs with tenant partners	11/28/23	02/19/24	12w							[Bar]	[Bar]	[Bar]						
Develop plan for recruitment/ phased governance strategies	11/28/23	02/19/24	12w							[Bar]	[Bar]	[Bar]						
Benchmark: Draft Governance Model	11/28/23	02/19/24	12w							[Bar]	[Bar]	[Bar]						
Approvals process with Tenant Partners/ SFAI Board	02/20/24	06/10/24	16w									[Bar]	[Bar]	[Bar]				
DDA NEGOTIATIONS	05/06/24	08/28/24	83d										[Bar]	[Bar]	[Bar]			

EXHIBIT D

ACCESS LICENSE AGREEMENT

This Access Agreement (“Agreement”) is made effective as of the date of the last signature hereto (“Effective Date”) by and between the **City of Santa Fe**, New Mexico, a municipal corporation (“**City**”, “**Grantor**”), and Santa Fe Art Institute (“**SFAI**”, “**Grantee**”).

Recitals

- A. The Grantor owns real property with an address at 1600 St. Michaels Drive located in the City and County of Santa Fe, New Mexico, also known as the Midtown Site (“**Property**”).
- B. The Grantee is a real estate developer selected to perform a Scope of Work at Property, and more specifically the Project Parcel (“**Parcel**”), both described in the executed Exclusive Negotiation Agreement (“**ENA**”) of which this Access Agreement is an Exhibit and attached and dated to be concurrent with said ENA.
- C. The primary purpose of this Agreement is to grant access to the Grantee to perform necessary, standard, and professional due diligence activities at the Parcel in furtherance of creating a viable development plan and the terms for the disposition of the Parcel.
- D. The Grantor and Grantee are discussing the disposition and conveyance of the Property to the Grantee (the “**Transaction**”), to allow for the implementation of an approved development plan.

E. As part of such due diligence, the Grantee has requested, and the Grantor has agreed, that the Grantee be allowed to access the entire Property to conduct inspections, assessments, investigations, sampling and testing of the Property and the soils, structures, and improvements thereon, on the terms and provisions of this Agreement.

Agreement

NOW THEREFORE, in consideration of the foregoing Recitals, the Transaction, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor and Grantee covenant and agree as follows:

1. **Grant of Access.** Subject to the terms of this Agreement, the Grantor grants the Grantee a temporary, nonexclusive License for the term hereof under, over, on, and across the Project Parcel for the benefit of the Grantee, its agents, employees, consultants, and contractors and their respective subcontractors at every tier, and all others providing services in connection with the Transaction (the “License”).

2. **Access Studies.** Subject to the notice provisions of Section 3. below, the Grantee shall use the License for purposes of inspections, diligence, sampling, testing, and invasive and non-invasive studies (collectively, the “Access Studies”) of the Project Parcel. The Access Studies may include conducting such tests, feasibility studies, environmental studies, appraisals, and engineering studies as the Grantee may elect, to determine whether the Project Parcel is satisfactory for the Grantee’s contemplated use thereof.

2.1. The Grantee agrees that, when possible, the Access Studies will be conducted in a manner so as not to physically damage the Property. The Grantor agrees, however, that the Access Studies may include invasive testing, including without limitation soil samples, drilling or boring, and removal of improvements or surfaces for environmental, geotechnical, archeological or other studies and testing, per the terms of the ENA and listed below. Grantee must submit to Grantor written notice and scope of work and schedule describing the testing for Grantor to approve prior to commencement of work.

2.2. The Grantee agrees that all Access Studies will be conducted in a manner that least disturbs the tenants of and visitors to the Property and does not unreasonably interfere with the usual operation of the Property by the Grantor and its tenants. The Grantor will cooperate, and will cause its tenants to cooperate, with the Grantee with respect to the Access Studies.

3. **Notice.** Other than incidental access to the Property, the Grantee shall provide notice of its intended access and Access Studies as provided in this Section.

3.1. The Grantee will provide the Grantor with prior notice of any access onto Property for purposes of a non-invasive Access Study, which notice shall state the nature, location, and times proposed. Such access and Access Study shall be permitted unless the Grantor responds within two (2) business days after receipt of the notice that the proposed access or Access Study is not convenient, which response will include convenient times at which the Grantee may reschedule.

3.2. The Grantee will provide the Grantor with at least five (5) business days' prior written notice of any access onto Property for purposes of an invasive Access Study, as described in Section 2.1 above. Such notice shall state the nature, location, and times proposed for such access. The invasive Access Study may proceed upon written approval by the Grantor provided within three (3) business days after receipt of the notice, which approval shall not be unreasonably withheld, conditioned, or delayed.

4. **Repair of Foundation Property.**

4.1. The Grantee will restore the Property to the same condition in which it existed immediately prior to the conducting of any inspection or testing, promptly upon completion of each such inspection. The Grantee will not permit any liens or encumbrances to arise against the Property in connection with or as a result of such Access Studies.

4.2. If any portion of the Property is damaged as a result of the Grantee's Access Studies, the Grantee shall repair or restore the damaged property to substantially the condition that existed immediately prior to such damage and shall pay all costs and expenses associated therewith.

5. **Term.** The License granted herein shall terminate on the first to occur of (i) the parties' declination to proceed with the Transaction, including the termination of any transfer agreement for the Project Parcel, or (ii) the date of closing of the Transaction.

6. **Compliance with Laws.** The Grantee shall comply with all laws, rules, regulations and orders of federal, state, and local governmental agencies that are applicable to the Property and the Access Studies conducted on or about the Property by or on behalf of the Grantee.

7. **Hazardous Materials.** The Grantee shall refrain from discharging any hazardous wastes or toxic substances on or about any portion of the Property, other than such substances as may be commonly used by qualified persons in connection with the Access Studies, which use shall be subject to the repair obligations described in paragraph 3, above.

8. **Insurance.** As a condition to the exercise of the rights granted herein, the Grantee shall maintain, and cause its contractors entering onto the Property to maintain, the following insurance, and will provide the Grantor with current certificates of insurance and copies of insurance policies evidencing the required insurance coverages. The policy shall be endorsed to include the City of Santa Fe, as additional insured for all ongoing and completed operations.

Exhibit E: Insurance Requirements of the Midtown Development Exclusive Negotiation Agreement shall apply to the Access Studies in connection with this Access License Agreement.

9. **Indemnity.** To the extent permitted by law, the Grantee shall indemnify, defend and hold harmless the Grantor from and against all claims arising out of or related to the Grantee's Access Studies, except to the extent such claims are caused by the negligent acts or omissions of the Grantor or any other tenant of the Property; provided, however, that this indemnity shall not extend to, and the Grantee shall not be liable to the Grantor for, (a) any release of pre-existing

hazardous substances arising from the conduct of any investigation or testing of the Project Parcel, or for any diminution in the market value of the Project Parcel resulting from the information disclosed by any such investigation or test, (b) for any negligence or misconduct of the Grantor or any agent, contractor or employee of the Grantor, or (c) any pre-existing conditions on or about the Property.

10. **Miscellaneous.**

10.1. Time is of the essence in this Agreement.

10.2. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter of this Agreement and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force and effect.

10.3. This Agreement may be modified only by a written document signed by both parties. No provision of this Agreement shall be deemed waived by either party unless such waiver is in writing and signed by the party making such waiver. No custom or practice between the parties in connection with the terms of this Agreement shall be construed to modify the Agreement or waive either party's right to insist upon strict performance of the terms of this Agreement.

10.4. The parties acknowledge that this Agreement is the result of negotiations between the parties, and in construing any ambiguity hereunder no presumption shall be made in favor of either party.

10.5. This Agreement shall be interpreted under and governed by the laws of the State of New Mexico. The Parties agree that any action or suit arising from this License shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court. The prevailing party in any action or proceeding arising out of this Agreement shall be entitled to recover costs including reasonable attorneys' fees from the other party.

10.6. EACH PARTY WAIVES TRIAL BY JURY IN THE EVENT OF ANY LEGAL PROCEEDING BROUGHT BY THE OTHER IN CONNECTION WITH THIS AGREEMENT.

10.7. The Recitals set forth at the beginning of this Agreement are incorporated herein by reference. The headings of this Agreement have been inserted for convenient reference only and are not to be considered in the construction of any provision hereof.

10.8. This Agreement may be executed in counterparts that together will be a single agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date.

Grantee:

Offeror Entity

Santa Fe Art Institute, a 501c3 non-profit corporation

Date: Aug 9, 2023

By: *Jamie Blosser*
Jamie Blosser (Aug 9, 2023 14:04 MDT)

Name: Jamie Blosser

Title: Executive Director/CEO

Grantor:

City of Santa Fe, New Mexico, a Municipal Corporation of the State of New Mexico

Date: _____

By: _____

Name: _____

Title: _____

Attest:

Kristine Bustos Mihelcic, City Clerk

City Attorney's Office:

Patricia Feghali

Patricia Feghali (Aug 9, 2023 13:54 MDT)

Assistant City Attorney

Approved for Finances:

Emily Oster, Finance Director

EXHIBIT E
INSURANCE REQUIREMENTS

Offeror shall procure and maintain, or cause its subcontractors and subcontractors to procure and maintain the following insurance policies, through the Initial Term and any Extended Term, in the following amounts and with the following terms and conditions:

1.1 Intentionally Deleted.

1.2 Offeror and its consultant and/or subcontractors shall provide to and for approval of the City valid duplicate original Certificates of Insurance and/or, at the City's option, a certified copy of the insurance policies and all endorsements of riders thereto, evidencing compliance with all requirements contained in this Agreement, all in form and substance satisfactory to the City. The Offeror and its consultants and/or subcontractors shall provide City with proof of payment of premiums in full for the current annual period or, if such premiums are financed, evidence that premiums are current. The Offeror and its consultants and/or subcontractors shall be required to provide 30 days prior notice to City of any material changes to the policies, including but not limited to impairment of liability limits, that impact the required insurance coverage hereunder.

1.3 Acceptance and/or approval of the insurances herein does not and shall not be construed to relieve Offeror and its consultants and/or subcontractors from any obligations, responsibilities, or liabilities under the Agreement.

1.4 All insurances required by the Agreement shall: (i) be obtained at the sole cost and expense of the Offeror and its consultants and/or subcontractors; (ii) be maintained with insurance carriers

properly licensed to do business in all states required by the terms of this Agreement, and acceptable in all respects, to the City; (iii) be “primary” and non-contributing to any insurances maintained by City; (iv) contain a Waiver of Subrogation in Favor of the City (except for Professional Liability Insurance), so that in no event, shall the insurance carriers have any right of recovery against the City or its employees, (v) provide that written notice be given to the City and all additional insureds and certificate holders at least ten (10) days prior the cancellation, non-renewal or modification of any such policies, which notice shall be evidenced by return receipt of United States certified mail; and (vi) designate the City and any subsidiary, parent or affiliates of the City and its partners, directors, officers, agents, and employees or others or entities with an insurable interest designated by the City as additional insureds thereunder (except for Workers Compensation and Employer’s Liability insurances and Professional Liability Insurance).

1.5 The Offeror and its consultants and/or subcontractors shall not take any action or omit to take any action that would suspend or invalidate any of the required coverages during the period such coverages are required to be in effect.

1.6 Not less than ten (10) days before the expiration date or renewal date, the Offeror and its consultants and/or subcontractors shall supply the City with updated replacement Certificates of Insurance, amendatory riders, and endorsements, and/or certified copies of insurance policies, together with evidence of payment of the premium, that clearly evidence the continuation of all of the terms and conditions of the coverage, limits of protection, and scope of coverage as provided by the expiring Certificates of Insurance, certified copies of insurance policies and amendatory riders or endorsements originally provided.

1.7 If the Offeror and its consultants and/or subcontractors shall fail to purchase and maintain, or fail to require to be purchased and maintained, the insurance specified in this Agreement, City may (but shall not be obligated to) purchase such insurance on behalf of the Offeror and its consultants and/or subcontractors and the Offeror and its consultants and/or subcontractors shall reimburse the City for any premiums paid therefor.

1.8 The Offeror and its consultants and/or subcontractors shall select reputable and financially sound insurers acceptable to City to underwrite the required coverages. In all instances, each insurer selected must be rated at least "A-" Class "X" in the most recently published Best's Insurance Report.

1.9 There shall be no exclusion for damages due to acts of terrorism.

1.10 No act or omission of any insurance agent, broker or insurance company representative shall relieve Offeror and its consultants and/or subcontractors of any of its obligations under this Agreement.

1.11 Offeror will procure and maintain the following insurance with limits of liability not less than specified below.

A. Commercial General Liability Insurance written on a per occurrence basis with a One Million Dollar (\$1,000,000) per occurrence limit and a Two Million Dollar (\$2,000,000) general aggregate. This limit may be provided through a combination of primary and umbrella/excess liability policies. Such insurance shall include the following coverages:

1. Premises, Operations and Products/Completed Operations coverage.
2. Products/Completed Operations coverage shall extend for a period of at least twelve (12) months after the date of final completion and acceptance by the City of all of Offeror and its consultants and/or subcontractors' Work.
3. Personal Injury and Advertising Injury Liability.

B. Worker's Compensation, Occupational Disease Benefits, Voluntary Compensation, and Disability Benefits, Defense Base Act, and any other federal and/or state coverages, as required, for not less than the statutory limits, and if applicable, an "Other States Endorsements"; Employers' Liability Insurance or Stop-Gap Employers' Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) each accident, by disease One Million Dollars (\$1,000,000) each employee.

C. Comprehensive Business/Automobile Liability Insurance to include uninsured/underinsured and medical payment protection covering any automobile, including owned, leased, hired, and non-owned automobiles, with a combined single limit for Bodily Injury and Property Damage of not less than One Million Dollars (\$1,000,000) per accident.

D. Professional Liability Insurance covering Errors and Omissions, with limits of liability of not less than One Million Dollars (\$1,000,000) per claim with a one-year completed operations period. Local Small, Minority, or Woman Business Enterprise ("**Disadvantaged Business Enterprise**", "**DBE**") consultants may be utilized. If DBE's

limits are lower than the required limits, such lower DBE limits must be approved in writing by City in advance. Each such policy shall have a reasonable deductible or self-insured retention. Such insurance shall remain in force during the period when such Contractor and its consultants and/or subcontractors services are performed and for a period of one (1) year after the completion of the Scope of Work.

E. If performing any invasive testing or consulting services relating to any environmental services or handling of hazardous materials, contractors' pollution liability coverage with commercially reasonable limits and deductibles or self-insurance retention.

1.12 The parties identified on **Exhibit F** shall be named as additional insureds on the Offeror's policies (except for Worker's Compensation and Employer's Liability insurances and Professional Liability Insurance). Coverage provided to the additional insureds will include protection for Products/Completed Operations Hazard.

EXHIBIT F

ADDITIONAL INSUREDS REQUIREMENTS

- (1) City of Santa Fe, and each of the City's officers, agents, employees, and representatives;
- (2) Any present or future mortgagee which encumbers an interest in the land or improvements located at the Property, together with their respective directors, officers, employees or agents, and any successors and assigns of such entities; and
- (3) Such other and additional entities and/or individuals as may be identified by Owner to Contractor in writing.

<END OF ENA DOCUMENT>



CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Midtown Arts and Design Alliance, LLC

Procurement Title: Exclusive Negotiating Agreement

Procurement Method: State Price Agreement Cooperative Sole Source Other Negotiated _____

Exempt Request For Proposal (RFP) Invitation To Bid (ITB) Contract under 60K Contract over 60K

Department Requesting Office of Economic Development Staff Name Lee Logston

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees. .

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
<input type="checkbox"/>	<input type="checkbox"/>	State Price Agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	RFP
<input type="checkbox"/>	<input type="checkbox"/>	Evaluation Committee Report
<input type="checkbox"/>	<input type="checkbox"/>	ITB
<input type="checkbox"/>	<input type="checkbox"/>	Bib Tab
<input type="checkbox"/>	<input type="checkbox"/>	Quotes (3 valid current quotes)
<input type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Sole Source Request and Determination Form
<input type="checkbox"/>	<input type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input type="checkbox"/>	Purchasing Officers approval for exempt procurement
<input type="checkbox"/>	<input type="checkbox"/>	BAR
<input type="checkbox"/>	<input type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Executed Contract, Agreement or Amendment
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contracts and Agreements form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Certificate of Insurance
<input type="checkbox"/>	<input type="checkbox"/>	All documentation presented to Committees
<input type="checkbox"/>	<input type="checkbox"/>	Other: _____

Lee Logston Asset Development Manager 8/8/2023

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

JoAnn Lovato Montaño Contracts Supervisor Aug 10, 2023

Purchasing Officer (attesting that all information is reviewed) Title Date

Include all other substantive documents and records of communication that pertain to the procurement and any resulting contract.



City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # _____

Contractor: Midtown Arts and Design Alliance, LLC

Description: **Exclusive Negotiating Agreement**

Contract Agreement Lease / Rent Amendment

Term Start Date: _____ Term End Date: _____

Approved by Council

Date: Pending

Contract / Lease: **Contract**

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount \$ _____

Extend Termination Date to: _____

Approved by Council

Date: _____

Amendment is for:

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

Contract is for Exclusive Negotiation between the City of Santa Fe and Midtown Arts and Design Alliance, LLC for disposition of City property. Agreement is a result of the Evaluation Committee selecting Midtown Arts & Design Alliance, LLC from respondents to RFP #23/17/P Redevelopment of the Midtown Visual Arts Center.

3. **Procurement History:** _____

JoAnn Lovato Montano

Purchasing Officer Review:

Aug 10, 2023

Date:

Comment & Exceptions: Procured via RFP

4. **Funding Source:** _____ **Org / Object:** 5256175/471400

Andy Hopkins

Andy Hopkins (Aug 11, 2023 10:46 MDT)

Budget Officer Approval:

Aug 10, 2023

Date:

Comment & Exceptions: _____

Staff Contact who completed this form: Lee Logston, Asset Dev. Mgr. Phone # 505-955-6914

Email: lrlogston@santafenm.gov

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/27/2023

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 Arthur J. Gallagher Risk Management Services, LLC 400 Kiva Court Santa Fe NM 87505	CONTACT NAME: Natalie Rich PHONE (A/C, No, Ext): 505-467-6202 E-MAIL ADDRESS: natalie_rich@ajg.com		FAX (A/C, No): 505-983-9145
	INSURER(S) AFFORDING COVERAGE		
INSURED Santa Fe Art Institute, Inc. PO Box 24044 Santa Fe NM 87502	INSURER A : Philadelphia Indemnity Insurance Company		NAIC # 18058
	INSURER B : Hartford Insurance Company of MidWest		37478
	INSURER C : United States Liability Insurance Co		25895
	INSURER D : Trisura Specialty Insurance Company		16188
	INSURER E :		
	INSURER F :		

COVERAGES

CERTIFICATE NUMBER: 442620704

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.

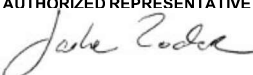
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			PHPK2512392	3/15/2023	3/15/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK2512392	3/15/2023	3/15/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB849284	3/15/2023	3/15/2024	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	34WECAA6907	6/1/2023	6/1/2024	<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
C	Directors & Officers Liability			NDO1034140M	6/16/2023	6/16/2024	\$1,000,000
D	Cyber Liability			ATB672296002	7/15/2023	7/15/2024	\$1,000,000

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

City of Santa Fe is an Additional Insured as respects General Liability policy, pursuant to and subject to the policy's terms, definitions, conditions and exclusions.

Waiver of Subrogation is included under the General Liability policy, with respect to the City of Santa Fe, as their interest may appear.

CERTIFICATE HOLDER**CANCELLATION**

City of Santa Fe 200 Lincoln Ave Santa Fe NM 87504 USA	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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STATE OF NEW MEXICO

TAXATION AND REVENUE DEPARTMENT

RESIDENT BUSINESS CERTIFICATE

Issued to: SANTA FE INSTITUTE OF FINE ARTS INC

DBA: SANTA FE ART INSTITUTE
PO BOX 24044
SANTA FE, NM 87502-0044

Expires: **20-Oct-2025**

Certificate Number:

L1426991216



Stephanie Schiavini Clarke
Cabinet Secretary

THIS CERTIFICATE IS NOT TRANSFERABLE

**The City of Santa Fe
AND
Office of Economic Development**

Request for proposals (RFP)

**Project
Redevelopment of the Midtown Visual Arts Center**



RFP#: 23/17/P

RFP Release Date: December 1, 2022

Proposal Due Date: February 2, 2023

ELECTRONIC-ONLY PROPOSAL SUBMISSION

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement of the following services:

- Develop and operate an arts hub that includes arts and cultural organizations and activities, technology and design businesses;
- Procure the necessary project team to finance, renovate, lease, manage property;
- Program events within the Visual Arts Center and the adjacent outdoor spaces;
- Purchase or Master Lease the property through a Disposition and Development Agreement with the City of Santa Fe (City). (Note; The City will consider a purchase or lease, whichever benefits the proposed Project and City, as determined by the City.)

The Office of Economic Development is collaborating with the Arts & Culture Department to issue this RFP with the intention to identify the most qualified Offeror to redevelop the iconic Visual Arts Center into a dynamic, fun, and activated place that contributes to life at the Midtown District Santa Fe. A key City and public objective for the future Visual Arts Center is to help stabilize and enhance community arts and cultural organizations and strengthen the heritage of local arts and culture in Santa Fe and the region, as well as integrate technology and multimedia design into the land uses at Midtown. The Visual Arts Center should be a hub of activity that contributes to life and experiences within the District and represents true perspectives and the unique aspects of Santa Fe.

The Visual Arts Center redevelopment should be a beacon for how strengthening local arts and culture, integrated with technology and multimedia design, is an economic development tool for stabilizing the richness of Santa Fe's historic communities important to the past, present, and future of the city, as well as a project that will initiate future development. The completed Visual Arts Center should set the stage for the Midtown Site as a place that is welcoming, inclusive, equitable, feasible, and sustainable.

The Visual Arts Center is located adjacent to the Performing Arts Center on the Midtown Site.

B. BACKGROUND INFORMATION

This RFP was created and guided pursuant to the Midtown Moving Forward Resolution approved by the Governing Body (Resolution 2022-12).

A RESOLUTION ADOPTING NEXT STEPS FOR THE REUSE AND REDEVELOPMENT OF THE MIDTOWN PROPERTY INCLUDING APPLYING FOR LAND USE REZONING, GENERAL PLAN AMENDMENT, AND A MASTER PLAN;

ADOPTING A COMMUNITY DEVELOPMENT PLAN; ISSUING CERTAIN REQUESTS FOR PROPOSALS; CONDUCTING CERTAIN STUDIES AND ASSESSMENTS; AND SEEKING THE ACQUISITION OF LAND LOCATED WITHIN OR ADJACENT TO THE MIDTOWN SITE.

Through an extensive, dynamic, and inclusive public engagement process, a vision for the future of the Midtown Site lays the groundwork to create a place “*where a wide diversity of people interact and collaborate to find their passions; build their skills for a great career; live in a thriving, vibrant neighborhood and city; and create a great future for our community, region and beyond*” (excerpt from the Midtown Planning Guidelines, 2018).

Through the competitive and open RFP process, the City will continue to achieve the vision articulated in the Midtown Planning Guidelines that have guided the Midtown Redevelopment Plans, which may be accessed at: www.MidtownDistrictSantaFe.org . Prioritizing a mixed-use district, with associated land uses, has remained a key desirable use and is continually articulated as a priority throughout the Midtown planning public engagement process to date:

- Mixed-Income Housing – Families, Seniors, Live/Work, Artists
- Film and Multimedia Production with Career Paths
- Higher Education and Learning Environments, including a Public Library
- **Entertainment – Visual and Performing Arts**
- **Arts and Creativity – Makers Space and Community Arts Organizations**
- Business Entrepreneurship – Innovation, Design, Technology
- Family and Community Health Center
- Senior and Early Childhood Care Centers
- Open Space for Programming Local Culture, Arts, and Recreation

- **The Midtown Site**

Dating back to the mid-1800s, the Midtown Site (Site) has been used for various public oriented purposes, and briefly served as a military hospital during World War II. After the war, the Christian Brothers acquired the previous hospital campus facilities to establish a college campus, which operated until 2009. The City, with a commitment to preserve the civic purpose educational use, purchased the Site and leased it to a private, for-profit university. However, by June of 2018, the university ceased operations and full control of the Site reverted to the City on July 1, 2018.

The Site’s long history as a civic use continues with the City’s commitment to creating a new city center in what has become the geographic center of Santa Fe. By August of 2018, the City had held public engagement events, called the Midtown Campus Project, to provide open opportunities for the public to create a vision and concept for the future of the Site. The redevelopment of the Site, and this Project, was informed by other research conducted over the previous several years, including the Re:MIKE for the re-design of the St. Michaels corridor, which culminated in the Midtown LINC Overlay District (Ordinance 2016-39) to promote a mixed-use,

compact, pedestrian friendly district. Other references include: Culture Connects (2016); National Citizens Survey and Pollinating Prosperity Report (2017).

The Midtown Campus Project culminated in the publication of the Midtown Planning Guidelines in August 2018, which continue to guide the vision, goals, and ongoing public engagement efforts to inform and regulate the development of the Site.

- **Midtown Planning Guidelines**

The Midtown Planning Guidelines (Guidelines) are based on public input and provide key guidance for early projects that define the core shared values and future of Midtown as a civic place – a City Center. Some key values outlined in the Guidelines are:

- Sustainable Development
- A City Center
- Adaptable Infrastructure
- Catalyze the Midtown LINC Overly

Some preferred land uses listed in the Guidelines include:

- Higher Education
- Housing
- Film & Emerging Media
- Arts & Creativity
- New Business & Innovation

- **Midtown Planning Guidelines**

The Midtown Planning Guidelines (Guidelines) are based on public input and provide key guidance for early projects that define the core shared values and future of Midtown as a civic place – a City Center. Some key values outlined in the Guidelines are:

- Sustainable Development
- A City Center
- Adaptable Infrastructure
- Catalyze the Midtown LINC Overly

Some preferred land uses listed in the Guidelines include:

- Higher Education
- Housing
- Film & Emerging Media
- Arts & Creativity
- New Business & Innovation

- **The Midtown Visual Arts Center**

The Visual Arts Center (Arts Center), developed in 1987, is a complex with iconic structures and courtyards designed by Ricardo Legoretta. The Arts Center was created for a variety of arts uses, classrooms, and studios. The Arts Center is currently vacant. The buildings have been secured with much of the previous furnishing, fixtures, and equipment intact and are part of this RFP. The buildings systems, including mechanical, electrical, plumbing, and structural (MEPS) are also intact. However, as the buildings have been vacant since 2018, the lack of use has caused varying levels of deterioration. The City seeks a developer and operator with the capacity and experience to rehabilitate the Arts Center into an arts hub focused on local arts, design, multimedia, culture, creativity, and education uses. The buildings and outdoor areas will be disposed of in as-is condition.

To ensure long term financial stability, the City anticipates that the spaces will have mixed levels of affordability (market rents to below market rents) so that income generated from operations has the internal operating subsidies needed to create a self-sustaining enterprise.

The existing buildings within the Arts Center include:

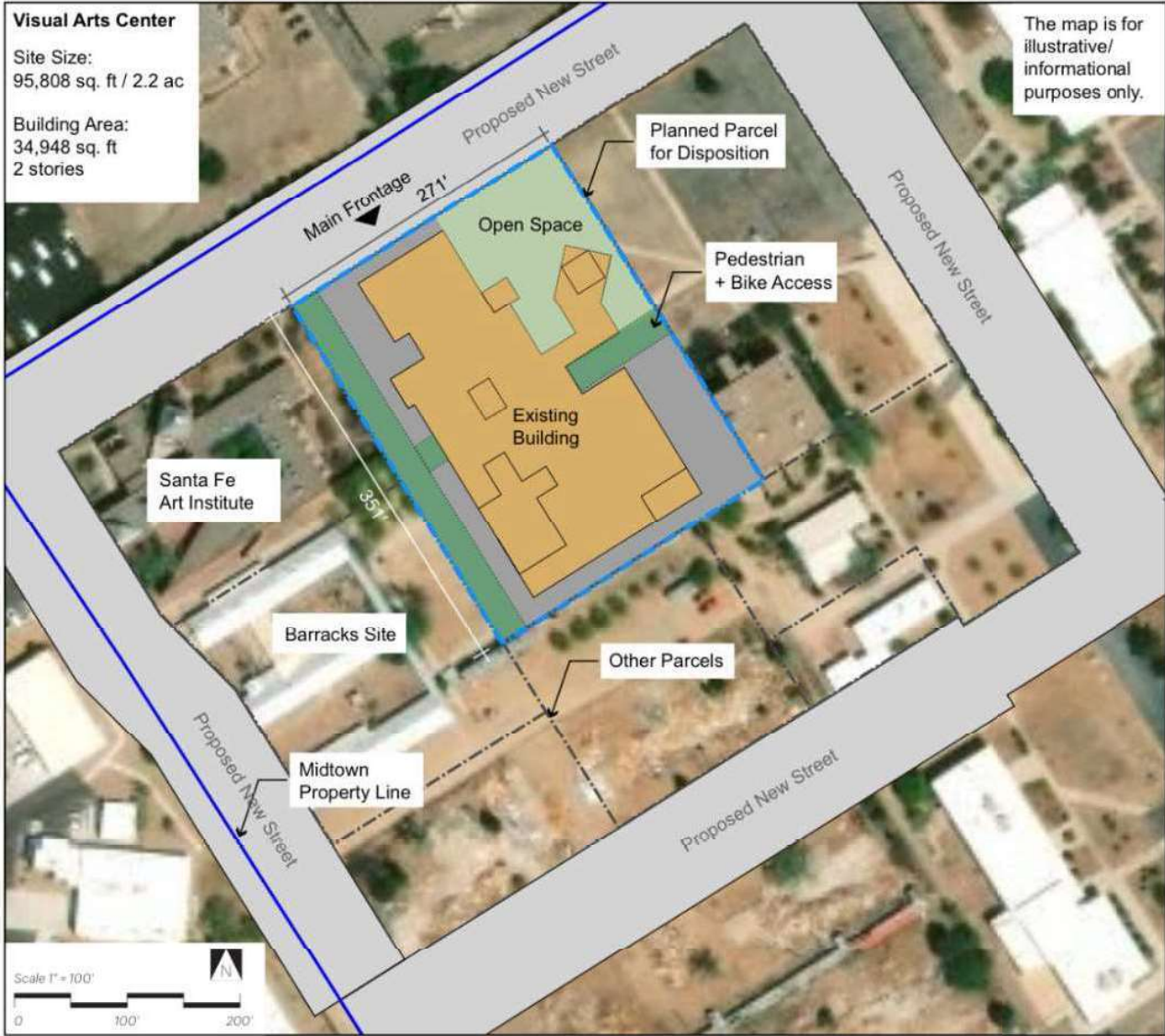
○ Marion Center for Photography	12,823 SF
○ Tipton Hall	2,522 SF
○ Tishman Hall & Tishman Art History Center	16,276 SF
○ <i>Santa Fe Art Institute (SFAI)</i>	<i>11,388 SF</i>

Note: SFAI is not part of this Solicitation. SFAI has a 99 year lease and intends to continue operations in its present location within the Visual Arts Center.

Military Barracks Site. This RFP includes three existing, connected, and vacant barracks structures, totaling approximately 15,000-17,000 square feet, on a site adjacent to the Arts Center (Barracks Site).

- **The Visual Arts Center Parcel**

See the following attached Parcel Plan for the proposed Visual Arts Center.





Additional Site Context: A Vision for the Midtown Visual and Performing Arts Center

The City envisions a 21st century Midtown Visual and Performing Arts Center that links the adjacent Garson Performance Theater with the Visual Arts Center into a cultural arts hub in the geography center of Santa Fe.

Concurrent with this Solicitation, the City issued a Solicitation for the redevelopment of the Performing Arts Center and anticipates working through a collaborative effort with the Selected Offerors of both Solicitations to plan for land uses, open space, streets, and circulation to create a dynamic, urban arts center that attracts Santa Feans, visitors, artists, performers, and benefactors, and which strengthen Santa Fe's uniqueness in public arts opportunities and offerings.

The Midtown Visual and Performing Arts Center is envisioned to be a home to resident arts, cultural, technology, and multi-media organizations presenting arts and performances from local communities, the region, nation, and globe, while creating jobs and strengthening the local economy.

C. SCOPE OF PROCUREMENT

The City envisions a redevelopment and operation of the existing Visual Arts Center into a dynamic arts hub that will create a mix of arts, cultural, technology and multimedia uses. The hub will be occupied with arts and cultural organizations that promote community creativity unique to Santa Fe and its communities, as well as technology and multi-media businesses. The operations will be self-sustaining based upon a mixed model of affordable and market rate lease spaces. Early arts programming is envisioned to begin bringing people back to Midtown.

D. PROCUREMENT MANAGER

The Office of Economic Development has assigned a Procurement Manager who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name: Lee Logston, Procurement Manager
Address: City of Santa Fe, Office of Economic Development
500 Market Street, 2nd Floor
Santa Fe, NM 87501
Email: llogston@santafenm.gov

1. **Procurement Manager and Central Purchasing Office.** Any inquiries or requests regarding this Solicitation should be submitted, in writing, to the Procurement Manager AND the Central Purchasing Office at the following emails:

Procurement Manager: lrllogston@santafenm.gov
Central Purchasing Office: purchasing_RFP@santafenm.gov

Offerors may contact **ONLY** the Procurement Manager and the Central Purchasing Office regarding this procurement. Other city employees or Evaluation Committee members do not have the authority to respond on behalf of the Procurement Manager.

Note: The Procurement Manager shall select the Evaluation Committee for Midtown RFPs, which shall include four city staff members with knowledge relevant to the objectives of the project and scope of work pursuant to the RFP, real estate development, and/or community and economic development; and, three community members with expertise in the subject matter directly related to the RFP with an emphasis on skills is sustainability, equity, arts and culture, and historic preservation. All members of the Evaluation Committee will be required to sign a Confidentiality Agreement and No Conflict of Interest Statement. The City, at its sole discretion, may amend the composition of the Evaluation Committee.

2. **Protest Manager.** Protests of the Solicitation or award must be submitted in writing to the Protest. As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and Procurement Manual Section Y, **ONLY** protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule, and the Solicitation. Protests submitted or delivered to the Procurement Manager will **NOT** be considered properly submitted.

Name: Joann Lovato, Protest Manager
Address: City, of Santa Fe, Purchasing Division (Agency)
200 Lincoln Avenue, Room 222
Santa Fe, New Mexico 87505
Email: jdlovato@santafenm.gov

E. PROPOSAL SUBMISSION

All proposals must be submitted via email to:
purchasing_RFP@santafenm.gov

F. DEFINITION OF TERMINOLOGY

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations:

1. “**Authorized Purchaser**” means an individual authorized by a Participating Entity to place orders against this contract.

2. “**Award**” means the final execution of the contract document.
3. “**Business Hours**” means 8:00 AM thru 5:00 PM MST/MDT, whichever is in effect on the date given.
4. “**Central Purchasing Office**” means the office responsible for the control of procurement of items of tangible personal property, services, or construction.
5. “**Chief Procurement Officer**” means that person within the Central Purchasing Office who is responsible for the control of procurement of items of tangible personal property, services, or construction.
6. “**City**” means the City of Santa Fe, New Mexico which in the procurement context may act through the Finance Director, City Manager, or Governing Body.
7. “**Close of Business**” means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.
8. “**Confidential**” means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7, NMSA 1978,. The following items may **not** be labelled as confidential: Offeror’s submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.
9. “**Contract**” means any agreement for the procurement of items of tangible personal property, services, or construction.
10. “**Contractor**” means any business having a contract with the City of Santa Fe.
11. “**Department**” means the Requesting Department sponsoring this Procurement.
12. “**Determination**” means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.
13. “**Desirable**” – the terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or discretionary item or factor.
14. “**Electronic Submission**” means a successful submittal of Offeror’s proposal.
15. “**Electronic Version/Copy**” means a digital form consisting of text, images or both readable on computers or other electronic devices. The electronic version/copy can only be emailed.

16. “**Evaluation Committee**” means a body appointed to perform the evaluation of Offerors’ proposals.
17. “**Evaluation Committee Report**” means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee’s recommendation for contract award. It will contain scores and written evaluations of all responsive Offeror proposals.
18. “**Final Award**” means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.
19. “**Finalist(s)**” means an Offeror(s) who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.
20. “**Hourly Rate**” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.
21. “**Mandatory**” – the terms “must,” “shall” “will,” “is required,” or “are required”, identify a mandatory item or factor. Failure to meet a mandatory item or factor may result in the rejection of the Offeror’s proposal.
22. “**Minor Irregularities**” means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.
23. “**Multiple Source Award**” means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Offeror.
24. “**Offeror**” is any person, corporation, or partnership who chooses to submit a proposal.
25. “**Procurement Manager**” means any person or designee authorized by the Requesting Department to facilitate the procurement and or administer the contract(s).
26. “**Project**” means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.

27. “**Redacted**” means a version/copy of the Offeror’s proposal with the information considered proprietary or confidential (as defined by §§57-3A-1 to 57-3A-7, NMSA 1978 and summarized herein and outlined in Section II.C.8 of this Solicitation) blacked-out BUT NOT omitted or removed.
28. “**Request for Proposals (RFP)**” means all documents, including those attached or incorporated by reference, used for soliciting proposals.
29. “**Requesting Department**” means the City Department responsible for overseeing the work or delivery of tangible personal property by a contractor.
30. “**Offeror**” is any person, corporation, or partnership who chooses to submit a proposal.
31. “**Responsible Offeror**” means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.
32. “**Responsive Offer**” or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity, or delivery requirements.
33. “**Sealed**” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The City of Santa Fe reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the City’s Chief Procurement Officer. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Chief Procurement Officer in such cases.
34. “**Selected Offeror**” means the Offeror, or Offerors, with whom the City negotiates upon contract terms for agreement, and is recommended by the Evaluation Committee for Award.
35. “**Staff**” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.
36. “**State (the State)**” means the State of New Mexico.
37. “**Statement of Concurrence**” means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated

- requirement(s). This statement shall be included in Offerors proposal. (E.g., “We concur,” “Understands and Complies,” “Comply,” “Will Comply if Applicable,” etc.)
38. “**Submission**” means the act of submitting documentation, or the name of the actual package of documents submitted, in response to a Solicitation.
 39. “**Unredacted**” means a version/copy of the proposal containing all complete information; including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.
 40. “**Written**” means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.

G. PROCUREMENT LIBRARY

A procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in the electronic version of this document through your own internet connection. The library contains information listed below:

Electronic version of Solicitation, Questions & Answers, Solicitation Amendments, etc.
<https://www.santafenm.gov/purchasing/solicitations?category=request-for-proposal>

Other relevant links:

www.MidtownDistrictSantaFe.org

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the Solicitation contains the schedule of events, the descriptions of each event, and the conditions governing this procurement.

A. SEQUENCE OF EVENTS

The City's Central Purchasing Office and the Procurement Manager will make every effort to adhere to the following schedule:

Action	Responsible Party	Due Dates
1) Issue Solicitation (RFP)	Central Purchasing Office	December 2, 2022
2) Pre-Proposal Conference (Site Tour) <i>Not Mandatory</i>	Requesting Department	December 13, 2022 9:00am - 10:30pm <i>On-site walking tour</i>
3) Pre-Proposal Conference (Q&A Session) <i>Not Mandatory</i>	Requesting Department	December 15, 2022 9:00am - 10:30pm <i>Web-based meeting</i>
4) Acknowledgement of Receipt Form	Potential Offerors	December 16, 2022 3:00 pm
5) Deadline to submit Written Questions	Potential Offerors	December 30, 2022 3:00pm
6) Response to Written Questions	Procurement Manager	January 13, 2023
7) <i>Submission of Proposal</i>	<i>Potential Offerors</i>	February 2, 2023 3:00pm
8) *Proposal Evaluation	Evaluation Committee	February 15, 2023
9) *Selection of Finalists	Evaluation Committee	February 17, 2023
10) *Best and Final Offers	Finalist Offerors	February 24, 2023
11) *Oral Presentation(s)	Finalist Offerors	February 27 - 28, 2023
12) *Finalize Contractual Agreements <i>(Exclusive Negotiations Agreement)</i>	Requesting Department/Finalist Offerors	March 31, 2023
13) *Contract Awards	Requesting Department/ Finalist Offerors	April 12, 2023
14) *Protest Deadline	Central Purchasing Office	+15 days

* Dates indicated in Events 8 through 14 are proposed and may be subject to change at the City's discretion without necessitating an amendment to this Solicitation.

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the Sequence of Events shown in Section II.A., above.

1. Issue Solicitation (RFP)

This Solicitation is being issued on behalf of Office of Economic Development, City of Santa Fe, on the date indicated in Section II.A, Sequence of Events.

2. Acknowledgement of Receipt Form

Potential Offerors may e-mail the Acknowledgement of Receipt Form (APPENDIX A), to the Procurement Manager at lrlogston@santafenm.gov, to have their organization placed on the Procurement Distribution List. The form must be returned to the Procurement Manager by the time and date indicated in Section II.A, Sequence of Events.

The Procurement Distribution List will be used for the distribution of written responses to questions, and/or any amendments to this Solicitation. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this Solicitation. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror's representative shall not be included on the Procurement Distribution List and will be solely responsible for obtaining from the Procurement Library (Section I.G.) responses to written questions and any amendments to this Solicitation.

3. Pre-Proposal Conference

A Pre-Proposal Conference will be held at the time and date indicated in Section II.A, Sequence of Events.

Site Tours

Location: Midtown Site
Visual Arts Center
Address: 1600 St Michaels Dr, Santa Fe, NM 87505

Questions & Answers Session

City Zoom Video Conferencing:
Join Zoom Meeting
<https://santafenm-gov.zoom.us/j/83214485241>

Meeting ID: 832 1448 5241
One tap mobile
+16694449171,,83214485241# US
+16699006833,,83214485241# US (San Jose)

Potential Offeror(s) are encouraged to submit written questions in advance of the conference to the Procurement Manager (see Section I.D). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All questions answered during the Pre-Proposal Conference will be considered **unofficial** until they are posted in writing. All written questions will be addressed in writing on the date listed in Section II.A, Sequence of Events. A public log will be kept of the names of potential Offeror(s) that attended the pre-proposal conference.

Attendance at the pre-proposal conference is highly recommended, but not mandatory for submission of a proposal to this Solicitation.

4. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this Solicitation until the time and date indicated in Section II.A, Sequence of Events. All written questions must be addressed to the Procurement Manager as declared in Section I.D. Questions **must** be clearly labeled and **must** cite the Section(s) in this Solicitation or other document that form the basis of the question.

5. Response to Written Questions

Written responses to the written questions will be provided via e-mail, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an Acknowledgement of Receipt Form (Section II.B.2 and APPENDIX A).

An electronic version of the Questions and Answers will be posted to:
<https://www.santafenm.gov/purchasing/solicitations?category=request-for-proposal>

6. Submission of Proposal

At this time, only electronic proposal submission is allowed. Do not submit hard copies until further notice.

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE CENTRAL PURCHASING OFFICE AS PER THE FOLLOWING:

VIA EMAIL AT:	Purchasing_RFP@santafenm.gov
NO LATER THAN:	3:00 PM MST/MDT
ON THE DATE INDICATED IN:	Section II.A, Sequence of Events

PROPOSALS RECEIVED AFTER THIS DEADLINE WILL NOT BE ACCEPTED. The date and time of receipt will be recorded on each proposal.

Proposals must be submitted electronically through email until further notice. Refer to Section III.B.1 for instructions. Proposals submitted by facsimile will not be accepted.

A log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to §13-1-116, NMSA 1978, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. **The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Solicitation.** Awarded in this context means the final required City of Santa Fe signatures on the contract(s) resulting from the procurement has been obtained.

7. Proposal Evaluation

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in Section II.A, Sequence of Events, depending upon the number of proposals received. During this time, the Central Purchasing Office or/and the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. **Discussions shall not be initiated by the Offerors.**

8. Selection of Finalists

The City reserves the right to select a short-list of Responsible Offerors, and engage with said Responsible Offerors, in a three-phased process leading to the execution of a contract in the form of a Disposition and Development Agreement. The three phases are the (1) Offeror Short-List Phase; (2) the Exclusive Negotiation Agreement Phase with the Selected Offeror; and (3) the Disposition and Development Agreement Phase. Through these phases, the City intends to undertake a process in which the parties engage in a due diligence and negotiation period to ensure the viability of the proposed project, and that the proposed project is in the best interest of the City.

- **Offeror Short-List Phase.** The Offeror(s) on the Short List will be Offeror(s) with high-ranking scores with whom the City seeks to engage in further understanding and clarifying the Offeror(s) proposal and response to the RFP. The Offeror(s) will participate in a presentation and interview phase, in which the City may request additional information from the Offeror(s).

Exclusive Negotiation Agreement Phase (Negotiation Phase). The Final Contract Award in connection with this RFP shall be pursuant to an Exclusive Negotiation Agreement (ENA) with the Selected Offeror. **THE EXECUTION OF THE ENA IS THE FINAL CONTRACT AWARD RELATED TO THIS RFP.**

The Selected Offeror shall pay to the City a single non-refundable fee totaling seven thousand, five hundred dollars (\$7,500). The funds will be used by the City to perform necessary due diligence activities and feasibility analysis during the ENA period with the Selected Offeror.

The ENA will have a term of no more than ten (10) months from the date the Parties execute the ENA to the date the parties enter into a Disposition and Development Agreement (DDA), which may be extended upon approval by the City and pursuant to specific terms that will be stated in the ENA. The ENA will specify the terms, due diligence, feasibility analysis scope of work, and schedule for completing the scope of work, as well as timeframe for finalizing the agreed upon terms for a DDA. If the parties cannot achieve agreement on terms and conditions of the ENA during the Negotiation Period, the City reserves the right to terminate negotiations and start a Negotiation Period with other Offeror(s) who have been ranked for competitive selection.

The commencement of the Negotiation Phase will not represent any obligation or agreement on the part of the City. Obligation will only occur once the parties entered into by a fully executed ENA that has been (i) approved as to form by the City's Legal Department; (ii) approved by the Governing Body after a hearing with due notice; and, (iii) duly executed by the Selected Offeror and the City. If a sale of property is contemplated, a DDA to sell or lease will not be final until the associated ordinance is adopted and the required 45-day referendum period has expired and/or after any referendum against the sale is unsuccessful. See NMSA 1978, Section 3-54-1.

The ENA will indicate the City's intention to dispose of the property, only, with the stated objective of executing a DDA at the culmination of the ENA Term. The terms of a DDA will be informed by the due diligence activities and feasibility assessments performed by the Selected Offeror during the ENA Term. During this term, the Selected Offeror must diligently, competently, and expeditiously comply with all requirements and scope of work pursuant to the RFP and the ENA. Reporting, analysis, and communication requirements from the Selected Offeror to the City related to the scope of work will be identified in the ENA.

If the City or Selected Offeror terminates negotiations either during the Negotiation Period or the ENA Term, whether with or without cause, then neither the City nor the Selected Offeror will have any rights against, or liabilities to, the other, and the Selected Offeror will not be further considered for a future award for this RFP. In addition, the ENA will be terminated if the Selected Offeror does not execute the DDA.

The Selected Offeror will not have permission to enter upon the Site, unless permission is formally granted by the City as a term of the ENA and subject to the

termination section of the ENA. The inclusion of access of the Site, if it occurs, will only indicate that the City has granted permission for the Selected Offeror to enter onto the Site for the limited purposes stated in the scope of work set forth in the ENA, and will not indicate that the City reached any other agreement with the Selected Offeror regarding the Site or the proposed project.

- **Disposition and Development Agreement (DDA) Phase.** At the completion of the ENA due diligence period and upon execution of the DDA, the Selected Offeror shall deposit 20% of the negotiated purchase price or annual lease amount into an escrow account, which shall be applied to the final purchase price or annual lease amount, whichever is applicable. The final purchase price or annual lease amount and all associated transaction fees, and the closing schedule timeframe shall be in the DDA.

The Selected Offeror will be required to commence construction on the Offeror's proposed project or the initial phase of the development program, as applicable, within twelve (12) months from the date of the execution of the DDA, which may be extended upon approval by the City and pursuant to specific terms that will be stated in the DDA.

- **Disposition and Reuse of Furniture, Fixtures, and Equipment (FF&E).** The buildings within the Arts Center contain furniture and fixtures that are to be maintained with the buildings, as some of these assets were designed by the architect of the Arts Center. In addition, there are various types of equipment that were used for arts and educational purposes. The City has conducted a preliminary inventory of the FF&E, which will be made available to the Selected Offeror to be reviewed and assessed as part of the ENA due diligence.

9. Protest Deadline

Any protest by an Offeror must be timely submitted and in conformance with §13-1-172, NMSA 1978 and applicable procurement regulations. As a Protest Manager has been named in this Solicitation, pursuant to §13-1-172, NMSA 1978 and Procurement Manual Section Y, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule, and this Solicitation. The 15 calendar day protest period shall begin on the day following the notice of award of contract(s) and will end at 5:00 pm MST/MDT on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to the Protest Manager as indicated in Section I.D.2, Protest Manager.

PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Potential Offerors must indicate their acceptance of these Conditions Governing the Procurement, Section II.C, by completing and signing the Letter of Transmittal Form (APPENDIX D), pursuant to the requirements in Section II.C.26.

2. Incurring Cost

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this Solicitation shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contractual agreement that may result from this Solicitation shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with the City which may derive from this Solicitation. The City entering into a contractual agreement with an Offeror will make payments to only the prime contractor.

4. Subcontractors/Consent

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from The City awarding any resultant contract before any subcontractor is used during the term of this agreement.

5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. The Department or the Central Purchasing Office personnel will not merge, collate, or assemble proposal materials.

6. Offeror's Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request addressed to the Central Purchasing Office and the Procurement Manager and signed by the Offeror's duly authorized representative.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. Proposal Offer Firm

Responses to this Solicitation, including proposal prices for services, will be considered firm for three-hundred sixty (360) days after the due date for receipt of proposals.

8. Disclosure of Proposal Contents

The contents of all submitted proposals will be kept confidential until the final award has been completed by The City. At that time, all proposals and documents pertaining to the proposals will be available for public inspection, **except for proprietary or confidential material** as follows:

- a. Proprietary and Confidential information is restricted to:
 1. confidential financial information concerning the Offeror's organization; and
 2. information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7.
- b. An additional but separate redacted version of Offeror's proposal, as outlined and identified in Sections III.B.1.a.i and III.B.2.a.i, shall be submitted containing the blacked-out proprietary or confidential information, to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

IMPORTANT: If applicable, the price of products offered or the cost of services proposed **shall not** be designated as proprietary or confidential information.

If a request is received for disclosure of proprietary or confidential materials, the City Attorney and the Chief Procurement Officer shall examine the request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of proprietary or confidential information.

9. No Obligation

This Solicitation in no manner obligates The City or any of its Departments to the use of any Offeror's services until a valid written contract is awarded and approved by appropriate authorities.

10. Termination

This Solicitation may be canceled at any time and all proposals may be rejected in whole or in part when the Department determines such action to be in the best interest of the City of Santa Fe.

11. Sufficient Appropriation

Any contract awarded resulting from this Solicitation process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be affected by sending written notice to the contractor. The City's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The City requires that all Offerors agree to be bound by the General Requirements contained in this Solicitation. Any Offeror's concerns must be promptly submitted in writing to the attention of the Procurement Manager.

13. Governing Law

This Solicitation and any agreement with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied in writing by the Procurement Manager or contained in this Solicitation shall be used as the basis for the preparation of Offeror proposals.

15. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the potential Offeror to adhere to the requirements specified within the Solicitation. The Evaluation Committee will reject the proposal of any potential Offeror who is not a Responsible Offeror or fails to submit a Responsive Offer as defined in §13-1-83 and §13-1-85, NMSA 1978.

16. Right to Waive Minor Irregularities

The Evaluation Committee, upon approval from the Chief Procurement Officer, in consultation with the City Attorney's Office, reserves the right to waive minor irregularities, as defined in Section I.F.22. The Evaluation Committee also reserves the right to waive mandatory requirements if all the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not

otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

17. Change in Contractor Representatives

The City reserves the right to require a change in contractor representatives if the assigned representative(s) is (are) not, in the opinion of The City, adequately meeting the needs of The City.

18. Notice of Penalties

The Procurement Code, §13-1-28 through 13-1-199, NMSA 1978, imposes civil, and misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

19. Department Rights

The Department in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Offeror's proposal.

20. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from the City written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or City contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or removal from the contract.

21. Ownership of Proposals

All documents submitted in response to the Solicitation shall become property of The City. If the Solicitation is cancelled, all responses received shall be destroyed by the Central Purchasing Office unless the Offeror either picks up, or arranges for pick-up, the materials within three (3) business days of notification of the cancellation. Offeror is responsible for all costs involved in return mailing/shipping of proposals.

22. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from the Solicitation shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of The City.

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without The City's written permission.

23. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.5, Response to Written Questions).

24. Use of Electronic Versions of this Solicitation (RFP)

This Solicitation is being made available by electronic means. In the event of conflict between a version of this Solicitation in the Offeror's possession and the version maintained by the Central Purchasing Office, the Offeror acknowledges that the version maintained by the Central Purchasing Office shall govern.

Please refer to:

<https://www.santafenm.gov/purchasing/solicitations?category=request-for-proposal>

25. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form (APPENDIX B), as a part of their proposal. This requirement applies regardless of whether a covered contribution was made or not made for the positions of Governor and Lieutenant Governor, City Officials or other identified official. **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

26. Letter of Transmittal

Offeror's proposal must be accompanied by an **unaltered** Letter of Transmittal Form (APPENDIX D), which must be **completed** and **signed** by the individual authorized to contractually obligate the company, identified in #2 below. **Do not leave any of the items on the form blank.** (N/A, None, Does not apply, etc. are acceptable responses).

The Letter of Transmittal MUST:

1. Identify the submitting business entity (its Name, Mailing Address and Phone Number);
2. Identify the Name, Title, Telephone, and E-mail address of the person authorized by the Offeror's organization to (A) contractually obligate the business entity providing the Offer, (B) negotiate a contract on behalf of the organization; and/or (C) provide clarifications or answer questions regarding the Offeror's proposal

content (*A response to B and/or C is only required if the responses differs from the individual identified in A*);

3. Identify sub-contractors, if any, anticipated to be utilized in the performance of any resultant contract award;
4. Describe any relationship with any other entity (such as City, County, State Agency, reseller, etc., that is not a sub-contractor identified in #3), if any, which will be used in the performance of this awarded contract; and
5. Be signed and dated by the person identified in #2 above; attesting to the veracity of the information provided and acknowledging (a) the organization's acceptance of the Conditions Governing the Procurement stated in Section II.C.1, (b) the organizations acceptance of the Section V Evaluation Factors, and (c) receipt of all amendments to this Solicitation.

Failure to respond to ALL items as indicated above, will result in Offeror's disqualification.

27. Disclosure Regarding Responsibility

- A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:
 1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
 2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
 - a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
 - b. violation of Federal or state antitrust statutes related to the submission of offers; or
 - c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
 3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
 4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.

- a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
 - b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
 - c. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)
- B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.
- C. The Contractor shall provide immediate written notice to the Chief Procurement Officer or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.
- D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
- F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state, or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the Chief Procurement Officer or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the Chief Procurement Officer may terminate the involved contract for cause. Still further the Chief Procurement Officer may suspend or debar the

Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the Chief Procurement Officer.

28. Local Preferences

The City recognizes the value of revenue derived from local businesses and shall procure goods and/or services locally when possible, pursuant to Ordinance and this Manual, except for purchases using City, state and federal grant funds. Applicable City, state and federal law and regulations govern procurements using City, state or federal funds.

A. Local Preference Qualification

To qualify for a local preference, a vendor must attach a state of New Mexico Taxation and Revenue Department-issued, Resident Business certification of eligibility to its bid or proposal, showing that the business is located within the Santa Fe municipal limits. If an offer is received without a copy of the appropriate State of New Mexico Taxation and Revenue Department issued Business Registration Certificate, the preference will not be applied. A valid resident business certificate is issued by the Taxation and Revenue Department pursuant to NMSA 1978 §13-1-22.

1. When the City makes a purchase using a formal request for proposals process, not including contracts awarded on a point-based system, the City shall award additional 6% of the total weight of all the factors used in evaluating the proposal to a local resident business. The City shall award an additional 3% of the total weight of all the factors used in evaluating the proposal to a non-local resident business who has hired all local resident business subcontractors.
2. When the City makes a purchase using a formal request for proposal process and the contract is awarded based on a point-based system, the City shall award additional point's equivalent to 6% of the total possible points to a local resident business. The City shall award an additional 3% of the total possible points to a business who has hired all local resident business subcontractors.

The maximum available local preference shall be 6%.

B. Solicitations above One Million Dollars (\$1,000,000)

1. The City shall deem a bid or proposal submitted by a resident business to be 6% lower than the bid actually submitted, if and only if at least 50% of the subcontracted services go to subcontractors who are resident businesses.
2. The City shall deem the bid or proposal submitted by a non-local resident business to be 3% lower than the bid actually submitted, if and only if at least 50% of the sub- contracted services go to subcontractors who are resident businesses.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

B. NUMBER OF COPIES

1. ELECTRONIC SUBMISSION ONLY

Proposals in response to this RFP must be submitted through City of Santa Fe's Purchasing email ONLY. The Offeror need only submit one single electronic copy of each portion of its proposal (Technical and Cost) as outlined below.

EXCEPTION: Multiple electronic files may be necessary if there are issues uploading/attaching PDF files.

Proposals must be submitted in the manner outlined below. Technical and Schedule and Economic Analysis portions of Offeror's proposal must be submitted in separate uploads as indicated below in this section, and must be prominently identified as "Technical Proposal," or "Schedule and Economic Analysis Proposal," on the front page of each upload

- a) **Technical Proposals** – One (1) electronic file upload must be organized in accordance with Section III.C.1. Proposal Format. All information for the Technical Proposal must be combined into a single file/document for uploading. *Multiple electronic files may be necessary if there are issues uploading/attaching PDF files.*

The Technical Proposals must not contain any cost information.

- i. **Confidential Information:** If Offeror's proposal contains confidential information, as defined in Section I.F.8 and detailed in Section II.C.8, Offeror **must** submit two (2) separate electronic Technical Proposal files, as follows:

- One (1) **unredacted** (def. Section I.F.39) electronic file version of the requisite Offeror's proposal for evaluation purposes; and,
- One (1) **redacted** (def. Section I.F.27) electronic file version for the public file, to facilitate eventual public inspection of the non-confidential version of Offeror's proposal. Redacted versions must be clearly marked as "REDACTED" or "CONFIDENTIAL" on the first page of the electronic file.

- b) **Schedule and Economic Analysis Proposals** – One (1) electronic file upload of the Offeror's proposal containing **ONLY** the Schedule and Economic Analysis Proposal. All information for the Schedule and Economic Analysis proposal must be combined

into a single file/document for uploading. Multiple electronic files may be necessary if there are issues uploading/attaching PDF files.

- i. **Confidential Information**: If Offeror’s proposal contains confidential information, as defined in Section I.F.8 and detailed in Section II.C.8, Offeror **must** submit two (2) separate electronic Technical Proposal files, as follows:
 - One (1) **unredacted** (def. Section I.F.39) electronic file version of the requisite Offeror’s proposal for evaluation purposes; and,
 - One (1) **redacted** (def. Section I.F.27) electronic file version for the public file, to facilitate eventual public inspection of the non-confidential version of Offeror’s proposal. Redacted versions **must** be clearly marked as “REDACTED” or “CONFIDENTIAL” on the first page of the electronic file.

The ELECTRONIC proposal submission must be, as follows:

Email: purchasing_RFP@santafenm.gov
Date: As indicated in Section II.B.6., Submission of Proposal

Submissions cannot be password protected and must be either PDF or Word format. Ensure that you, as the Offeror, allow adequate time for large uploads and to fully complete your submittal by the deadline. A submission that is not both: (1) fully complete; and (2) received, via email by the deadline, will be deemed late. Further, a submission that is not fully complete by the deadline because the response was captured, blocked, filtered, quarantined, or otherwise prevented from reaching the proper destination server by any anti-virus or other security software will be deemed late.

LATE PROPOSAL SUBMISSIONS SHALL NOT BE ACCEPTED

Any proposal that does not adhere to the requirements of this Solicitation and this Section may be deemed non-responsive and rejected on that basis.

C. PROPOSAL FORMAT

All proposals must be submitted as indicated in this Section.

The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material must be minimal. The proposal must be organized and

indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

Proposal Content and Organization

Technical Proposal (*File/ Binder 1*):

A. Preface

1. Letter of Transmittal Form
2. Table of Contents
3. Proposal Summary

B. Technical Specifications

1. Organizational Experience
2. Organizational References
3. Oral Presentation – Acknowledgement and Agreement Statement
4. Mandatory Specification
5. Desirable Specification

C. Business Specifications

1. Financial Stability (Financial information considered confidential, as defined in Section I.F.8. and detailed in Section II.C.8, should be placed in the **Confidential Information** file, per Section III.B.1.a.i and Section III.B.2.a.i.).
2. Campaign Contribution Form
3. Local Preferences

D. Other Support Material (if applicable)

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should be minimal.

Do not include any Schedule and Economic Analysis Proposal information in the Technical Proposal. Said information shall be included in the Schedule and Economic Analysis Proposal (File/ Binder 2)

Schedule and Economic Analysis Proposal (*Binder 2*):

- A. Narrative of Schedule and Economic Analysis Proposal
- B. Completed Schedule and Economic Analysis Proposal response (APPENDIX C)

All submission or presentation of proposed schedules, financing, or expenses must be incorporated only in the Schedule and Economic Analysis Proposal (File/ Binder #2).

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal.

IV. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each specification, unless otherwise instructed, for the Evaluation Committee to evaluate and award points accordingly.

A. DETAILED SCOPE OF WORK

This section describes the Scope of Work required of the Offerors.

The City seeks a qualified developer and operator to redevelop the existing asset into a dynamic arts hub that creates a mix of spaces for local artists, arts and culture organizations, entrepreneurs in arts related industries, as well as exhibition spaces, educational uses, and multi-media spaces that might be related to the Garson Studios, which is also located on the Midtown Site. The Arts Center should be a place with a range of indoor and outdoor events, programs, activities, and business hours so that it is a hub throughout the year during the day, evening, and weekends.

The developer/ operator will lease the asset to visual arts and cultural organizations that promote community creativity unique to Santa Fe and its communities, as well as businesses focused on technology and design. The operations of the Arts Center are to be self-sustaining based upon a mixed model of affordable and market rate lease spaces. In addition, the Selected Offeror will be responsible for the following:

- Develop and implement arts programming that activates the Project site and brings people to Midtown.
- Securing capital for rehabilitation of the existing center, as well as operating costs with the capacity for securing charitable contributions to ensure sustainable operations.
- Assemble a project team with the necessary expertise, experience, and capacity to develop and manage the proposed redevelopment project, such as expertise in real estate finance, planning and predevelopment, design and construction, and property and asset management.
- Develop projected operating budget line items and assumptions, including sources of income generated from the proposed Project.
- Provide a professional and disciplined project management approach in connection with the proposed Project with the objective of ensuring transparent information, project governance, smooth negotiations, and clear communications, as well as risk management and quality control throughout the development process.
- Manage a development process for the commencement and completion of the proposed Project, pursuant to project schedules agreed upon with the City.
- Submit regularly scheduled status reports regarding project development scope, budget, and schedule, as well as operations and asset management.
- Undertake the necessary activities associated with development, including, but not limited to, the planning, design, finance, construction, leasing or purchasing

(whichever disposition the City determines is most beneficial to the City and the proposed project), and management of the completed Project.

The Offeror, at their sole expense, shall perform the following:

Development (Mandatory):

a. Due Diligence Activities

- i. Land and building that will include environmental assessments, investigations, reports, and other site, and building inspections, and assessments.
- ii. Undertake any related remediation, mitigation, demolition, or rehabilitation actions pursuant to applicable codes, regulations, and laws for said actions.
- iii. Land valuation assumptions include said due diligence activities and remediation, mitigation, demolition, or rehabilitation actions.

b. Development Approvals

Obtain all regulatory approvals and permits, including, but not limited to, zoning and land use, environmental (if applicable), and construction.

c. Design and Construction

Obtain all necessary governmental permits for the development and construction of the Project. The planning, design and construction of the Project must comply with any applicable land use and zoning codes, environmental reviews, and approvals, and building codes, and be consistent with the Midtown Planning Guidelines and approved Midtown Redevelopment Plans. Must comply with all applicable federal, state, and local laws and regulations, and obtain all appropriate government authorities, including without limitation, the City of Santa Fe, all construction, and ancillary approvals for development at the Midtown Site, including, but not limited to, all required building permits, approvals, and inspections. All costs associated with development approvals for the Project will be the Offeror's responsibilities, along with the following tasks:

- i. *Urban Design and Land Planning.* Prior to the City's disposition of the tracts, parcels, or buildings, the City's Planning Department must review and comment on proposed urban design guidelines with site plans or master plan, accompanied by the complete development program, for the proposed project.
- ii. *Architecture.* Prior to the City's disposition of the building(s), the City's Planning Division must review and comment the Schematic Design for the proposed development, including the development program.

- iii. *Construction Documents.* The final Construction Documents must be submitted to the City’s Building Permit Division. The Documents must conform to previous review comments and approvals made by the City.
 - iv. *Construction.* The Offeror is responsible for the construction and coordination of all necessary off-site and on-site improvements. The proposal must address responsibility by the Offeror or its tenants for the construction of cores and shells, tenant improvements, and installing fixture, finishes, and equipment, as well as preservation and/or reuse of said fixture, finishes, and equipment.
- d. **Environmental Remediation, Demolition and Building Systems – Mechanical, Electrical, Plumbing, Structural (MEPS)**
Offeror is responsible for undertaking environmental site assessments and financing and implementing any remediation and demolition activities to accommodate the proposed uses. The City shall collaborate with the Selected Offeror to identify sources of funding for assessments and remediation, as may be required, and to maximize access and capacity to securing government funding for said activities. The Offeror will recognize in the proposal that the disposition of the property is in an as-is condition.
- e. **Taxes, Bond, and Insurance**
- i. *Taxes.* Upon the City’s disposition of the land or buildings, the Selected Offeror is responsible for paying all real estate taxes and other taxes associated with the disposition transaction and other development activities at the Site.
 - ii. *Bond.* Prior to the disposition, the Selected Offeror must submit performance and payment bonds to the City in an amount generally commiserate with the cost of the Selected Offeror’s failure to perform to be negotiated with the City as part of the Disposition and Development Agreement negotiations.
 - iii. *Insurance.* The Selected Offeror must acquire, maintain, and provide proof of insurance coverage, including worker’s compensation, employer’s liability, commercial general liability, and professional liability, at a minimum, during the term of exclusive negotiation agreement while the City remains in control of the Site. The City will establish insurance amounts and terms pursuant to the risk profile of the proposed project and due diligence activities.
- f. **Public/ Private Partnership Management and Protocols**
The Selected Offeror shall coordinate and collaborate with the City, as well as with other municipal, state, and federal governmental agencies that have jurisdictional or regulatory authority over any predevelopment and development activities at the Site. The Offeror should have a clear understanding and Project Management tools, including protocols, that will be used to manage public/private partnerships.

As required, the Selected Offeror will coordinate with the City regarding applications or other submissions and documentation in connection with environmental assessments and remediation plans with the relevant regulatory agency(s).

Operations - Property & Asset Management (Mandatory)

The Selected Offeror will be responsible for all property operations, maintenance, security, and other industry standard property and asset management activities. Said responsibilities shall be undertaken and conducted in a highly qualified professional manner to create and maintain an exemplary, welcoming, and safe building and urban environment that promotes a sense of community. Aspects of the Offeror's proposal shall include:

- i. Leasing and Marketing
- ii. Property Maintenance & Replacement Reserves
- iii. Fiduciary Oversight
- iv. Financial Management
- v. Budgeting and Implementation
- vi. Asset Management

The Offeror, at their sole expense, should perform the following:

Development (Desirable)

a. Community Engagement

A focus on inclusive, welcoming, fun, and creative community engagement for the arts and cultural community, as well as the public at large. A focus on communities in adjacent neighborhoods, low-income households, Spanish speaking people, Indigenous people, youth, and working families should be considered.

b. Events and Site Activation

A focus on events that activate the site during the development process; and choreograph a tenancy and/or programming scenario that establishes an ongoing active and creative arts and cultural environment.

c. Education Uses

A focus on career paths, internships, and training for residents in arts, cultural, and creative industries. A focus on design-thinking and innovation, and/or film and multimedia production.

d. Film and Multimedia Related Uses

A focus on capitalizing on the expansion of film and multimedia production.

e. Green Building and Sustainable Site Design

A focus on excellence in environmental design and energy and resource efficiency, with an emphasis on energy reduction and water reduction. For example, provide USGBC LEED credits that the development will pursue.

Operations - Property & Asset Management (Desirable)

- a. Mixed-Income Tenant Operating Budget
A focus on sustainable and feasible operating budgets that include market rate and below market rate rents.
- b. Community Programming
A focus on community programming accessible and welcoming to Santa Fe communities
- c. Outdoor Space Activation
A focus on creating a vibrancy at the Midtown District that attracts local communities and future development to achieve the goals within the Midtown Redevelopment Plans.
- d. Green and Healthy Maintenance Procedures
A focus on creating healthy environmental conditions for people.

B. PREFACE (File/ Binder 1)

1. Letter of Transmittal Form

The proposal **must** include the Letter of Transmittal Form (APPENDIX D). The form **must** be completed and must be signed by the person authorized to obligate the company.

2. Table of Contents

The proposal **must** include a Table of Contents that enumerates each section pursuant to Section III.C.1.: Proposal Content and Organization.

3. Proposal Summary

The proposal summaries are to be included to provide the Evaluation Committee with an overview of the proposal and the following information:

- a) *Vision and Goals*. Provide the Offeror's vision and goals for their proposed Project, and an approach for achieving the vision and goals.
- b) *The Project Team*. Include a summary of the Offeror's team, experience, capacity, and qualification, and other information summarizing the proposal.
- c) *Site Plan and Development Program*. Include a conceptual site plan illustrating parcel boundaries addressing open space and site setbacks, parking, and other development elements for the Evaluation Committee to consider. The response should include a conceptual development program with gross square footages.

- d) The Proposal Summary shall not include elements of the Schedule Proposal, or other content that would be considered proprietary or trade secrets that have been provided within the other areas of the Proposal.
- e) The Proposal Summary is to be limited to no more than seven pages to clearly articulate and capture the key elements of the Offeror's response to this RFP.

C. TECHNICAL SPECIFICATIONS

1. Organizational Experience

Offerors **must**:

- a) Provide a description of relevant corporate experience with government and private (for-profit and nonprofit) sectors. The experience of all proposed subcontractors must be described, as well.
- b) Thoroughly describe how the Offeror has supplied expertise for similar scopes of work and must include the extent of their experience, expertise and knowledge as a developer and operator of the Project. Proposal should include the Offeror's capacity and experience undertaking the full range of development activities necessary to plan, design, assess, finance, entitle, structure, and construct real estate, as well as procure the necessary project consultant team for professional services. The proposal should include the Offeror's capacity and experience in property and asset management to operate the completed Project including the following: leasing, marketing, maintenance, fiduciary oversight, financial management, operations budgeting and implementation.
- c) Brief Narrative. Attach a description of the roles of each entity of the Project team during development, construction, management, and operations of the Project. Organizational Charts, Staffing Plans, Governance Plans, Roles and Responsibilities Matrixes are encouraged.
- d) Describe opportunities and constraints, and the related success and failure experiences, as a real estate developer and operator on up to three similar projects. If Offerors do not have similar projects to describe their related experiences, then describe anticipated opportunities, risks, and challenges on this Project, and how Offeror plans to address them.

2. Organizational References

Offerors should provide a minimum of three (3) references from similar projects performed for public and/or private sector clients within the last three to five years.

Offerors are required to submit the Organization Reference Questionnaire (APPENDIX E), to the business references they list. The business references must

submit the Reference Form directly to the designee described in APPENDIX E. It is the Offeror's responsibility to ensure the completed forms are submitted as described in Appendix E.

Organizational References that are not received or are not complete, may adversely affect the Offeror's score in the evaluation process. Offerors are encouraged to specifically request that their Organizational References provide detailed comments. A member or members of the Evaluation Committee may contact any or all business references for validation of information submitted. Additionally, the Agency reserves the right to consider all information available to it (outside of the Business Reference information required herein), in its evaluation of Offeror responsibility pursuant to Section II.C.15.

Offerors shall submit the following Business Reference information as part of the Organizational References submittal:

- a) Client business entity name;
- b) Project description;
- c) Project dates (starting and ending);
- d) Technical information – Description of the Scope of Work;
- e) Offeror's staff assigned to the contract work that will be designated to the scope of work pertaining to this RFP; and
- f) Client's contact information (name, title, telephone number, e-mail address).
The client contact should be the project manager or direct point person assigned to the project.

3. Oral Presentation – Acknowledgement & Agreement Statement

If selected as a finalist, Offerors agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee, at the option of the Department. The Evaluation Committee may request a finalist to provide an oral presentation of the proposal as an opportunity for the Evaluation Committee to ask questions and seek clarifications.

4. Mandatory Specification

The following are mandatory specifications for the scope of work involved in this RFP that are required and will be evaluated and awarded points. Points will be awarded to projects that are clearly most beneficial to the City and the development and operation of the proposed project, as determined at the City's sole discretion.

Responses should correspond to the scope of work and must clearly articulate the Offeror's capacity and how they will perform the scope of work and demonstrate their qualifications in performing and completing the scope of work. Provide activities typically associated with Section IV., Scope of Work, Development, including, but not limited to, the planning, design, finance, construction, leasing (and/or selling), and management of the completed Project as outlined below:

Development

- a) Due Diligence Activities
 - i. Land and building
 - ii. Undertake any related remediation, mitigation, demolition, or rehabilitation actions.
 - iii. Land valuation.
- b) Development Approvals
- c) Design and Construction
 - i. *Urban Design and Land Planning.*
 - ii. *Architecture.*
 - iii. *Construction Documents.*
 - iv. *Construction.*
- d) Environmental Remediation and Building Systems – Mechanical, Electrical, Plumbing, Structural (MEPS)
- e) Taxes, Bond, and Insurance
 - i. *Taxes.*
 - ii. *Bond.*
 - iii. *Insurance.*
- f) Public/ Private Partnership Management and Protocols

Operations - Property & Asset Management

- i. Leasing and Marketing
- ii. Property Maintenance & Replacement Reserves
- iii. Fiduciary Oversight
- iv. Financial Management
- v. Budgeting and Implementation
- vi. Asset Management

5. Desirable Specification

The following are desirable specifications are not necessarily mandatory to the scope of work involved in this RFP but are desired additional specifications for which the City would like to award additional points.

Offeror's responses should correspond to the scope of work. Offeror should clearly articulate their capacity and how they will perform the scope of work, and

demonstrate their qualifications in, and commitment to, performing and completing the following scope of work during development and operations of the proposed project.

The desirable specifications are informed by input generated from the public engagement process with local communities and represent the City's desire to see them implemented.

- a) Mixed-Income Tenant Operating Budget
- b) Community Programming
- c) Outdoor Space Activation
- d) Green and Healthy Maintenance Procedures

D. BUSINESS SPECIFICATIONS

1. Financial Stability

Offerors must submit copies of the most recent years independently audited financial statements and the most current 10K, as well as financial statements for the preceding three years if they exist. The submission must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Offeror must state the reason and, instead, submit sufficient information (e.g. D & B report) to enable the Evaluation Committee to assess the financial stability of the Offeror.

2. Performance Surety Bond

Offeror(s) must have the ability to secure a Performance Surety Bond in favor of the Agency to insure the Contractor's performance upon any subsequent contract award. Each engagement will be different but the option to require a Performance Surety Bond must be available to the Agencies at time of contract award. A statement of concurrence must be submitted in the Offeror's proposal.

3. Campaign Contribution Disclosure Form - Signed

The Offeror must complete an unaltered Campaign Contribution Disclosure Form (APPENDIX B). and submit a signed copy with the Offeror's proposal. This must be accomplished whether an applicable contribution has been made. Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.

4. Local Preferences

Offerors must include a copy of their preference certificate in this section. See Section II.C.28 for additional information. To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors **must** include a copy, in this section, of its NM Resident preference certificate, as issued by the New Mexico Taxation and Revenue Department.

5. Other Support Materials

Offerors may include additional support materials that directly support and reinforce elements of the Technical Specifications. Offerors should limit collateral Support materials to that which is highly relevant.

**E. SCHEDULE AND ECONOMIC ANALYSIS PROPOSAL (File/
Binder 2)**

1. Narrative of Schedule and Economic Analysis Proposal

Offeror's proposal **must** include a narrative describing the assumptions and approach to development budget and financing and operating budget and financing.

2. Completed Schedule and Economic Analysis Proposal

Offeror's proposal must include all the pro forma information requested in APPENDIX C, as described below

a) Proforma and Land Valuation

The City will consider either a master lease or purchase disposition and will determine which is most advantageous to the Project and the City in the long term. The Offeror's proposal may consider a purchase payment scenario that ensures the financial stability of the proposed project. The disposition price, either sale or lease, of the City-owned properties, land and/or buildings, at the Site will be negotiated and premised on the appraised value of the property(s).

The City may undertake a financial feasibility analysis and determine land values based on the Selected Offeror's proposed land and/or building uses, development program and the associated financial underwriting, and land valuation assumptions. The land valuation analysis may include the cost of public infrastructure, environmental and site conditions remediation, and other public benefits, including community development objectives generated from the public engagement process, which may affect land value.

Final land sale price or lease cost will be negotiated between the City and the Selected Offeror within the Exclusive Negotiation Agreement phase and executed in the Land Disposition and Development Agreement ("DDA").

b) Operating Budget

The Offeror's Operating Budget showing Income and Expenses will also be used as an underwriting analysis during the land evaluation process. The Operating Budget should include, at a minimum:

- Income: type or name of potential tenants, projected rent payment; grants, and other sources of income; and,
- Expenses: property management and maintenance costs, conceptual common area charges (CAM).

Offerors shall not project City funding subsidies in the Operating Budget. Furthermore, Offerors should consider a mixed-income approach to ensure that there are spaces affordable to community arts and culture organizations, as part of the community arts stabilization objective, as well as market-rate spaces to ensure internal cross-subsidies to maintain and sustain a feasible long term operating budget.

In addition, the Operating Budget should include payment into operating and replacement reserves. Any funds generated from operations would be placed into an operating reserve to fund additional community programming.

c) Development Cost & Financing

The Selected Offeror is solely responsible for identifying and securing sources of financing for the proposed project. Provide a detailed Sources and Uses Total Development Cost (TDC) proforma, with a predevelopment budget (pre-construction). The City recognizes that the TDC budget is preliminary. However, the Offeror should indicate its capacity to secure funding, including charitable contributions, predevelopment loans, owner financing, permanent financing, and other sources to complete and operate the proposed project. Please note that City cash funding should not be included other than as part of the land valuation in the TDC, or as otherwise stated within this RFP.

The Selected Offeror is responsible for developing and implementing a financial structure and securing financing for the proposed project, including predevelopment costs, such as legal, planning, design, engineering, environmental, entitlement fees, and related consulting and professional services expenses; development costs of demolition, grading, site preparation, environmental remediation, installation and construction of off-site and on-site infrastructure and utilities, as may be applicable, as well as any proposed public amenities.

Residual Land Value. The Development Cost Proposal proforma must indicate a proposed land value and supporting calculation for the proposed sale or lease pricing of the property. The City recognizes that the proposed value is not final and will be further informed during the due diligence process under the ENA period and pursuant to an executed DDA.

Potential Incentives. The Selected Offeror is encouraged to coordinate with the Office of Economic Development regarding Opportunity Zone and other federal, state, and local incentive and investment programs. Land valuation, and the final land price or lease cost, will be negotiated with the City during the disposition and development process to maximize the economic value of the land toward achieving the Midtown Plans, inclusive of community development and public policy objectives.

Property As-Is Condition. The City is offering this Property in an as-is condition. The City is currently conducting building assessments on some buildings at the Midtown Site to identify critical building systems (mechanical, electrical, plumbing, structural) and code issues. In addition, The City conducted initial utility infrastructure studies for purposes of developing the master plan for the Midtown Property. Any assessments and reports that the City has for the parcel related to this RFP will be made available to the Finalist Offerors. Additional assessments shall be the sole responsibility of the Selected Offeror, which may be conducted during the ENA term.

City Grant Funds for Public Programming. The City contemplates (to be determined, and not guaranteed, at the discretion of the City) providing annual funding to defray the costs of public programming to activate the site during the Exclusive Negotiations Agreement period. The Offeror's Development Cost Proposal should include a budget for public programming purposes during this period.

d) Schedule

The Selected Offeror will be solely responsible for project management of the proposed project. Provide a detailed Schedule showing standard development line items for predevelopment. i.e. from commencement to full-build-out and occupancy. The City recognizes that the schedule is preliminary. However, the Offeror should indicate its professional capacity to manage scope of work critical paths and all the tasks associated with real estate development from project conception to completion.

V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of Offerors proposals by sub-category and correspond directly to Section IV: Proposal Content Specifications.

TABLE 1: Evaluation Factors Points Summary

EVALUATION FACTORS	Points Available
TECHNICAL PROPOSAL	
B. Preface	
B.1 Letter of Transmittal Form	Pass/Fail
B.2 Table of Contents	1
B.3 Proposal Summaries	10
C. Technical Specifications	
C.1 Organizational Experience	20
C.2 Organizational References	10
C.3 Oral Presentation (<i>Finalists</i>)	10
C.4 Mandatory Specification	15
C.5 Desirable Specification	13
D. Business Specifications	
D.1 Financial Stability	Pass/Fail
D.2 Performance Surety Bond	Pass/Fail
D.3 Campaign Contribution Disclosure Form (Signed)	Pass/Fail
D.5 Other Support Material	1
E. Schedule and Economic Analysis	
E.1 Narrative of Schedule and Economic Analysis	5
E.2 Completed Schedule and Economic Analysis Proposal	15
TOTAL	100 points
D.4 Local Preference (Section IV.C.28)	60

B. EVALUATION FACTORS

1. B.1 Letter of Transmittal Form

Pass/Fail only.

2. B.2 Table of Contents (See Table 1)

The proposal **must** include a Table of Contents that enumerates each section pursuant to Section III.C.1.: Proposal Content and Organization.

3. B.3 Proposal Summaries (See Table 1)

Points will be awarded based on the thoroughness, clarity, and validity of the response of the vision and goals, project team, site plan and development program, as well as the depth, relevancy, and quality of the experience. The proposal should not include elements of the Schedule Proposal and should not be more than seven (7) pages.

4. C.1 Organizational Experience (See Table 1)

Points will be awarded based on the thoroughness, clarity, and validity of the response of the engagements and experiences cited, as well as the depth, relevancy, and quality of the experience. In addition, points will be awarded based on Offeror's candid and well-thought-out response to successes and failures, as well as the ability of the Offeror to learn from its failures and grow from its successes.

5. C.2 Organizational References (See Table 1)

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (Appendix E). Offeror will be evaluated on references that show positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Points will be awarded for each individual response up to 1/3 of the total points for this category. Lack of a response will receive zero (0) points.

The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the City reserves the right to consider all information available to it (outside of the Organizational Reference information required herein), in its evaluation of Offeror responsibility per Section II.C.15.

6. C.3 Oral Presentation (See Table 1)

Points will be awarded based on the quality, organization, and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. Prior to Oral Presentation, Agency will provide the Offeror a presentation agenda. (If no Oral Presentations are required all Offerors will receive the same amount of total points for this evaluation factor.

7. C.4 Mandatory Specifications (See Table 1)

Points will be awarded based on the thoroughness, clarity, and validity of the response, including the proposed development plan and program, regarding the

capacity and qualifications of the Offeror to undertake and complete the scope of work.

Points will be awarded to projects that are clearly most beneficial to the City and the development and operation of the proposed project, as determined at the City's sole discretion.

8. C.5 Desirable Specifications (See Table 1)

Points will be awarded based on the thoroughness, clarity, and validity of the response regarding the capacity and qualifications, as well as commitment, of the Offeror to undertake and complete the scope of work.

9. D.1 Financial Stability (See Table 1)

Pass/Fail only. No points assigned.

10. D.2 Performance Bond (See Table 1)

Statement of Concurrence Pass/Fail only. No points assigned.

11. D.3 Campaign Contribution Disclosure Form (See Table 1)

Pass/Fail only. No points assigned.

12. D.4 Local Preference

Percentages will be determined based upon the point-based system outlined below.

To qualify for a local preference, a vendor must attach a state of New Mexico Taxation and Revenue Department-issued, Resident Business certification of eligibility to its bid or proposal, showing that the business is located within the Santa Fe municipal limits. If an offer is received without a copy of the appropriate State of New Mexico Taxation and Revenue Department issued Business Registration Certificate, the preference will not be applied. A valid resident business certificate is issued by the Taxation and Revenue Department pursuant to NMSA 1978 §13-1-22.

A. Local Preference Qualification

To qualify for a local preference, a vendor must attach a state of New Mexico Taxation and Revenue Department-issued, Resident Business certification of eligibility to its bid or proposal, showing that the business is located within the Santa Fe municipal limits. If an offer is received without a copy of the appropriate State of New Mexico Taxation and Revenue Department issued Business Registration Certificate, the preference will not be applied. A valid resident business certificate is issued by the Taxation and Revenue Department pursuant to NMSA 1978 §13-1-22.

1. When the City makes a purchase using a formal request for proposals process, not including contracts awarded on a point-based system, the City shall award additional 6% of the total weight of all the factors used in evaluating the proposal to a local resident business. The City shall award an additional 3% of

the total weight of all the factors used in evaluating the proposal to a non-local resident business who has hired all local resident business subcontractors.

2. When the City makes a purchase using a formal request for proposal process and the contract is awarded based on a point-based system, the City shall award additional point's equivalent to 6% of the total possible points to a local resident business. The City shall award an additional 3% of the total possible points to a business who has hired all local resident business subcontractors.

The maximum available local preference shall be 6%.

B. Solicitations above One Million Dollars (\$1,000,000)

1. The City shall deem a bid or proposal submitted by a resident business to be 6% lower than the bid actually submitted, if and only if at least 50% of the subcontracted services go to subcontractors who are resident businesses.
2. The City shall deem the bid or proposal submitted by a non-local resident business to be 3% lower than the bid actually submitted, if and only at least 50% of the sub- contracted services go to subcontractors who are resident businesses.

13. D.5 Other Support Material (See Table 1)

14. E.1 Narrative of Schedule and Economic Analysis Proposal (See Table 1)

Points will be Awarded based on the viability of the financial underwriting assumptions and the demonstration of the Offeror to secure the financing and undertake the schedule as proposed.

15. E.2 Completed Schedule and Economic Analysis Proposal (See Table 1)

Points will be awarded based on presenting a clear and comprehensive approach to financing the proposed project, land valuation that represents a connection between the proposed operating budget, capital development budget, and an understanding of market appraised value for the property's highest and best use, while considering community development benefits outlined in this RFP and the Midtown Plans. Points will also be awarded based on the proposed schedule, with priorities toward projects that proceed upon Contract Award with short-term completion dates.

C. EVALUATION PROCESS

1. All proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.

3. The Evaluation Committee may use other sources to perform the evaluation as specified in Section II. C.15.
4. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value in this Section V. The responsible Offeror with the highest scores will be selected for the short list, based upon the proposals submitted. The responsible Offerors whose proposals are most advantageous to the City, as determined by the City, and taking into consideration the evaluation factors in Section IV, will be recommended for award (as specified in Section II. B.8). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of the overall score.

APPENDIX A
ACKNOWLEDGEMENT OF RECEIPT FORM

**APPENDIX A
ACKNOWLEDGEMENT OF RECEIPT FORM**

Solicitation (RFP) #: 23/17/P

This Acknowledgement of Receipt Form should be signed and submitted no later than as indicated in Section II.A. Sequence of Events. Only potential Offerors who elect to return this form will receive copies of all submitted questions and the written responses to those questions, as well as any RFP amendments, if any are issued.

In acknowledgement of receipt of this Request for Proposal, the undersigned agrees that he or she has received a complete copy of the RFP, beginning with the title page, and ending with Appendix G.

The name and address below will be used for all correspondence related to the Request for Proposal.

ORGANIZATION: _____

CONTACT NAME: _____

TITLE: _____

PHONE NO.: _____ E-MAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

Submit Acknowledgement of Receipt Form to:

To: Central Purchasing
Email: Purchasing_RFP@santafenm.gov
Attention: Redevelopment of the Midtown Visual Arts Center, RFP #: 23/17/P

APPENDIX B
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

APPENDIX B
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Solicitation (RFP) #: 23/17/P

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, a prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

A prospective contractor or a family member or representative of the prospective contractor shall not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to Section [13-1-181](#) NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section [13-1-182](#) NMSA 1978 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed

proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family member” means a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor;

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Prospective contractor” means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code [Sections [13-1-28](#) through [13-1-199](#) NMSA 1978] or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any:

Mayor Alan M Webber
Councilor Signe Lindell, Pro-tem
Councilor Renee Villarreal
Councilor Michael Garcia
Councilor Carol Romero-Wirth
Councilor Lee Garcia
Councilor Christopher Rivera
Councilor Amanda Chavez
Councilor Jaime Cassutt

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature

Date

Title (Position)

APPENDIX C

SCHEDULE AND ECONOMIC ANALYSIS RESPONSE FORM

APPENDIX C
SCHEDULE AND ECONOMIC ANALYSIS RESPONSE FORM

The City does not have specific form or format for the **Offeror's** Schedule **and Economic Analysis** response, except as otherwise provided in this RFP Section IV: Proposal Content Specifications: Schedule **and Economic Analysis** Proposal.

APPENDIX D

LETTER OF TRANSMITTAL FORM

APPENDIX D
Letter of Transmittal Form

Solicitation (RFP) #: 23/17/P

ITEMS #1 to #4 EACH MUST BE COMPLETED IN FULL (pursuant to Section II.C.26). FAILURE TO RESPOND TO ALL FOUR (4) ITEMS WILL RESULT IN THE DISQUALIFICATION OF OFFEROR'S PROPOSAL! DO NOT LEAVE ANY ITEM BLANK! (N/A, None, Does not apply, etc. are acceptable responses.)

1. Identify the following information for the submitting organization:

Offeror Name	
Mailing Address	
Telephone	
FED ID#	
NM CRS#	

2. Identify the individual(s) authorized by the organization to (A) contractually obligate, (B) negotiate, and/or (C) clarify/respond to queries on behalf of this Offeror:

	A Contractually Obligate	B Negotiate*	C Clarify/Respond to Queries*
Name			
Title			
E-mail			
Telephone			

* If the individual identified in Column A also performs the functions identified in Columns B & C, then no response is required for those Columns. If separate individuals perform the functions in Columns B and/or C, they must be identified.

3. Use of subcontractors (Select one):

- No subcontractors will be used in the performance of any resultant contract, OR
 The following subcontractors will be used in the performance of any resultant contract:

(Attach extra sheets, as needed)

4. Describe any relationship with any entity (such as the City of Santa Fe, State Agency, reseller, etc. that is not a subcontractor(s) listed in #3 above), if any, which will be used in the performance of any resultant contract. (N/A, None, Does not apply, etc. are acceptable responses to this item.)

(Attach extra sheets, as needed)

By signing the form below, the Authorized Signatory attests to the accuracy and veracity of the information provided on this form, and explicitly acknowledges the following:

- On behalf of the submitting-organization identified in item #1, above, I accept the Conditions Governing the Procurement, as required in Section II.C.1. of this RFP;
- I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP; and
- I acknowledge receipt of all amendments to this RFP, if any.

_____, 20____

Authorized Signature and Date

(Must be signed by the individual identified in item #2.A, above.)

APPENDIX E

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

The City of Santa Fe, as a part of the Solicitation process, requires Offerors to list a minimum of three (3) organizational references in their proposals. The purpose of these references is to document Offeror's experience relevant to the Section IV.A. Scope of Work to evaluate Offeror's ability to provide goods and/or services, performance under similar contracts, and ability to provide knowledgeable and experienced staffing. The Questionnaire and information provided will become a part of the submitted proposal. Businesses/Organizations providing references may be contacted for validation of content provided therein.

For inclusion in the evaluation process, the Offeror is required to send the following Organizational Reference Questionnaire to each business reference listed in its proposal, as per Section IV.B.2. The business reference shall submit its response to the Organizational Reference Questionnaire, as follows:

Email: Lee Lodston at lrlogston@santafenm.gov
Due Date: As indicated in Section II.A. Sequence of Events

**APPENDIX E
ORGANIZATIONAL REFERENCE QUESTIONNAIRE**

Solicitation (RFP) #: 23/17/P

(Insert Name of Offeror Entity)

This form is being submitted to your company for completion as a reference for the organization listed above. This Questionnaire is to be submitted to the City of Santa Fe via e-mail at the following address: lrlogston@santafenm.gov

Forms must be submitted no later than the date of February 2, 2023, by 3:00pm MST.

This Questionnaire must not be returned to the entity requesting the reference.

References are strongly encouraged to provide comments in response to the entity's ratings.

For questions or concerns regarding this form, please contact:

Procurement Manager: Lee Logston

Email: lrlogston@santafenm.gov

When contacting the Procurement Manager, include the Solicitation (RFP) number listed at the top of this page.

Company providing reference:	
Contact name and title/position	
Contact telephone number	
Contact e-mail address	
Project description;	
Project dates (starting and ending);	
Type of reference (e.g. finance, legal, development, operations, government official, community member, other)	

QUESTIONS:

1. In what capacity have you worked with this vendor in the past?

COMMENTS:

2. How would you rate this firm's knowledge and expertise?

____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?

____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the vendor?

____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, N/A = Not applicable)

COMMENTS:

5. How would you rate the dynamics/interaction between vendor personnel and your staff?

____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

6. Who are/were the vendor's principal representatives involved in your project and how would you rate them individually? Would you, please, comment on the skills, knowledge, behaviors, or other factors on which you based the rating?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

COMMENTS:

7. How satisfied are/were you with the products developed by the vendor?

_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, N/A = Not applicable)

COMMENTS:

8. With which aspect(s) of this vendor's services are/were you most satisfied?

COMMENTS:

9. With which aspect(s) of this vendor's services are/were you least satisfied?

COMMENTS:

10. Would you recommend this vendor's services to your organization again?

COMMENTS:

APPENDIX F
NON-COLLUSION AFFIDAVIT

**APPENDIX F
NON-COLLUSION AFFIDAVIT**

Solicitation (RFP) #: 23/17/P

Offeror to complete, sign and submit with the proposal.

I hereby affirm that: I am the _____ (insert title) and the duly authorized representative of _____ (insert entity's name) whose address is _____; and, that I possess the legal authority to make this affidavit on behalf of myself and the entity for which I am acting.

I affirm:

1. I am fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal.
2. Such proposal is genuine and is not a collusive or sham proposal.
3. Neither the said Offeror nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any Offeror, firm or person to submit a collusive or sham proposal in connection with the Contract for which the attached proposal has been submitted or to refrain from offering a proposal in connection with the Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Offeror, firm or person to fix the price or prices in the attached proposal or of any other Offeror, or to fix any overhead, profit or cost element of the proposal or the offer price of any other Offeror, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Mayor and Council of City of Santa Fe, New Mexico or any person interested in the proposed Contract; and
4. The price or prices quoted in the attached proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Offeror or any of its agents, representatives, owners, employees, or parties in interest, including this affiant. I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

Signature _____

Printed Name _____

Title _____

Date _____

APPENDIX G
CONFLICT OF INTEREST

**APPENDIX G
CONFLICT OF INTEREST CERTIFICATION**

Solicitation (RFP) #: 23/17/P

Offeror to complete, sign and submit with the proposal.

The City of Santa Fe policy is to prevent personal or organizational conflict of interest, or the appearance of such conflict of interest, in the award and administration of City contracts and Purchase Orders.

The Offeror shall comply with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978 and include a full disclosure of all potential organization conflicts of interest in the Proposal.

In addition to the Developer and Operator entity, each key personnel shall also complete the Conflict of Interest Form below certifying that the entity has read and understands the City's policy regarding conflict of interest and the CFR. Each key personnel must also certify that there is no conflict of interest with the Project. If there is a conflict with the Project, then the entity and/or known key personnel needs to describe the conflict.

The entity agrees that, if after award, an organizational conflict of interest is discovered, the entity shall make an immediate and full written disclosure to the City that includes a description of the action that the entity has taken or proposes to take to avoid or mitigate such conflicts. If a conflict of interest is determined to exist, the City may, at its discretion, cancel the contract for the Project and/or remove the entity from the procurement process. If the entity was aware of a conflict of interest prior to the award of the contract and did not disclose the conflict to the City, the City may terminate the awarded contract for default.

The City may disqualify an Offeror if any of its key personnel belong to more than one Offeror organization/firm.

CERTIFICATION

I, _____ certify that I/we have no personal or financial interests and no present employment or activity which would be incompatible with this organization's/firm's participation in any activity related to this Solicitation or execution of the contract awarded or to be awarded in connection with the redevelopment of the Midtown Site, Santa Fe, New Mexico ("Project" for purposes of this Conflict of Interest Certification). For the duration of this firm's involvement in the Project contract, this entity agrees not to accept any gift, benefit, gratuity or consideration, or begin a personal or financial interest in a party who is bidding and/or proposing, or associated with a bidder and/or Offeror on this Project.

I certify that this entity will keep all Project contract information confidential and secure. This entity will not copy, give, or otherwise disclose such information to any other person unless the City of Santa Fe has on file a confidentiality agreement signed by the other person, and the disclosure is authorized and necessary to the Project contract. I understand that if this entity leaves this Project contract before it ends, this entity must keep all Project contract information confidential. I agree to follow any instructions provided by the City relating to the confidentiality of the Project contract information. I fully understand that any unauthorized disclosure made by this firm may be a basis for civil or criminal penalties.

If I or another person within this entity either learns or has reason to believe that any person who has access to the Project contract confidential information has or intends to disclose that information in violation of this agreement, I agree to immediately contact and advise the City of Santa Fe, as follows:

Name: Joann Lovato, Protest Manager
Address: City, of Santa Fe, Purchasing Division (Agency)
200 Lincoln Avenue, Room 222
Santa Fe, New Mexico 87505
Email: jdlovato@santafenm.gov

This statement must be fully completed and signed by an authorized representative.

Entity Name

Authorized Representative Name/Title

Phone #

Fax #

Email

Signature

Date

The above information is subject to verification by the City of Santa Fe. If the City finds a misrepresentation, the submission may be automatically disqualified from the procurement process or the contract may be canceled.

APPENDIX H
LIVING WAGE ORDINANCE



City of Santa Fe Living Wage Ordinance

PURSUANT TO THE CITY OF SANTA FE
LIVING WAGE ORDINANCE, SECTION 28-1 SFCC 1987
EFFECTIVE MARCH 1, 2022 ALL WORKERS WITHIN THE
CITY OF SANTA FE
SHALL BE PAID A LIVING WAGE OF

\$12.95 PER HOUR

The Santa Fe Living Wage Ordinance establishes minimum hourly wages. The March Living Wage increase corresponds to the increase in the Consumer Price Index (CPI).

Who is Required to Pay the Living Wage?

- Contractors for the City, that have a contract requiring the performance of a service but excluding purchases of goods;
- Businesses receiving assistance relating to economic development in the form of grants, subsidies, loan guarantees or industrial revenue bonds in excess of twenty-five thousand dollars (\$25,000) for the duration of the City grant or subsidy;
- Businesses required to have a business license or registration from the City; and
- Nonprofit organizations, except for those whose primary source of funds is from Medicaid waivers.
- For workers who customarily receive more than one hundred dollars (\$100) per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited towards satisfaction of the Living Wage provided that, for tipped workers, all tips received by such workers are retained by the workers, except that the pooling of tips among workers shall be permitted.
- All employers required to have a business license or registration from the City of Santa Fe ("City") must pay at least the adjusted Living Wage to employees for all hours worked within the Santa Fe city limits.

More Information, including the Living Wage Ordinance, is available at
www.santafenm.gov/living_wage_information

**The City of Santa Fe
AND
Office of Economic Development**

REQUEST FOR PROPOSALS (RFP)

**Project
Redevelopment of the Midtown Visual Arts Center**



**RFP#
23/17/P**

Amendment #1

Proposal Due Date: March 1, 2023

ELECTRONIC-ONLY PROPOSAL SUBMISSION

Redevelopment of the Midtown Visual Arts Center
RFP#23/17/P
Amendment #1

The Office of Economic Development is extending the Proposal Submission deadline for the Redevelopment of the Midtown Visual Arts Center to March 1, 2023, in order to provide a second Pre-Proposal Tour and Pre-Proposal Conference.

The amended Sequence of Events as well as the new tour information and Zoom link for the Pre-Proposal Conference can be found below.

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the Solicitation contains the schedule of events, the descriptions of each event, and the conditions governing this procurement.

A. SEQUENCE OF EVENTS

The City’s Central Purchasing Office and the Procurement Manager will make every effort to adhere to the following schedule: (Changes are Bold)

Action	Responsible Party	Due Dates
1) Issue Solicitation (RFP)	Central Purchasing Office	December 2, 2022
2) Pre-Proposal Conference (Site Tour) <i>Not Mandatory</i>	Requesting Department	December 13, 2022 9:00am - 10:30am <i>On-site walking tour</i>
3) Pre-Proposal Conference (Q&A Session) <i>Not Mandatory</i>	Requesting Department	December 15, 2022 9:00am - 10:30am <i>Web-based meeting</i>
4) Acknowledgement of Receipt Form	Potential Offerors	December 16, 2022 3:00pm
5) Deadline to submit Written Questions	Potential Offerors	December 30, 2022 3:00pm
6) Response to Written Questions	Procurement Manager	January 13, 2023
7) Added Tour Pre-Proposal Conference (Site Tour #2) <i>Not Mandatory</i>	Requesting Department	January 21, 2022 9:00am - 10:30am <i>On-site walking tour</i>
8) Added Session Pre-Proposal Conference (Q&A Session #2) <i>Not mandatory</i>	Requesting Department	January 23, 2022 9:00am - 10:30am <i>Web-based meeting</i>

9) Deadline to submit Written Questions #2	Potential Offerors	January 30, 2023 3:00pm
10) Responses to Written Questions #2	Requesting Department	February 10, 2023
11) <i>Submission of Proposal</i>	<i>Potential Offerors</i>	February 2, 2023 March 1, 2023 3:00pm
12) *Proposal Evaluation	Evaluation Committee	February 15, 2023 March 15, 2023
13) *Selection of Finalists	Evaluation Committee	February 17, 2023 March 17, 2023
14) *Best and Final Offers	Finalist Offerors	February 24, 2023 March 24, 2023
15) *Oral Presentation(s)	Finalist Offerors	February 27-28, 2023 March 27 - 28, 2023
16) *Finalize Contractual Agreements (<i>Exclusive Negotiations Agreement</i>)	Requesting Department/Finalist Offerors	March 31, 2023 April 28, 2023
17) *Contract Awards	Requesting Department/ Finalist Offerors	April 12, 2023 May 12, 2023
18) *Protest Deadline	Central Purchasing Office	+15 days

* Dates indicated in Events 12 through 18 are proposed and may be subject to change at the City’s discretion without necessitating an amendment to this Solicitation.

The second tour will meet in the main campus parking lot at the north end of the campus on Alumni Drive. Participants should park and meet at the west side of the lot, or away from any film trucks.

The Zoom link for the second Pre-Proposal Conference at 9:00 AM on January 23, 2023 is

Questions & Answers Session #2

City Zoom Video Conferencing:

Join Zoom Meeting

<https://santafenm-gov.zoom.us/j/82146707784>

Meeting ID: 821 4670 7784

One tap mobile

+12532050468,,82146707784# US

+12532158782,,82146707784# US (Tacoma)

**The City of Santa Fe
AND
Office of Economic Development**

REQUEST FOR PROPOSALS (RFP)

**Project
Redevelopment of the Midtown Visual Arts Center**



**RFP#
23/17/P**

Amendment #2

The Office of Economic Development is amending the Best and Final Offer and the Oral Presentation dates to the week of April 10, 2023.

The Evaluation Committee met pursuant to the Sequence of Events, as amended, and developed several Requests for Clarification that are currently being drafted for circulation to the Offeror(s), as part of the Best and Final Offer phase in the Sequence of Events.

The amended date for the Oral Presentations is provided below. The Procurement Manager will coordinate meeting date and time with the Offerors and the Evaluation Committee for the week of April 10, 2023.

Subsequent dates in the Sequence of Events have been amended accordingly and remain subject to change.

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the Solicitation contains the schedule of events, the descriptions of each event, and the conditions governing this procurement.

A. SEQUENCE OF EVENTS

The City’s Central Purchasing Office and the Procurement Manager will make every effort to adhere to the following schedule:

Action	Responsible Party	Due Dates
1) Issue Solicitation (RFP)	Central Purchasing Office	December 1, 2022
2) Pre-Proposal Conference (Site Tour) <i>Not Mandatory</i>	Requesting Department	December 13, 2022 11:30am -1:00pm <i>On-site walking tour</i>
3) Pre-Proposal Conference (Q&A Session) <i>Not Mandatory</i>	Requesting Department	December 15, 2022 11:30am -1:00pm <i>Web-based meeting</i>
4) Acknowledgement of Receipt Form	Potential Offerors	December 16, 2022 3:00pm
5) Deadline to submit Written Questions	Potential Offerors	December 30, 2022 3:00pm
6) Response to Written Questions	Procurement Manager	January 13, 2023
7) <u>Added Tour</u> Pre-Proposal Conference	Requesting Department	January 21, 2022 11:30am -1:00pm

(Site Tour #2) <i>Not Mandatory</i>		<i>On-site walking tour</i>
8) <u>Added Session</u> Pre-Proposal Conference (Q&A Session #2) <i>Not mandatory</i>	Requesting Department	January 23, 2022 11:30am -1:00pm <i>Web-based meeting</i>
9) Deadline to submit Written Questions #2	Potential Offerors	January 30, 2023 3:00pm
10) Responses to Written Questions #2	Requesting Department	February 10, 2023
11) <i>Submission of Proposal</i>	<i>Potential Offerors</i>	February 3, 2023 March 2, 2023 3:00pm
12) *Proposal Evaluation	Evaluation Committee	February 15, 2023 March 15, 2023
13) *Selection of Finalists	Evaluation Committee	February 17, 2023 March 17, 2023
14) *Best and Final Offers	Finalist Offerors	February 24, 2023 March 24, 2023 April 10-14, 2023
15) *Oral Presentation(s)	Finalist Offerors	February 27-28, 2023 March 27-28, 2023 April 10-14, 2023
16) *Finalize Contractual Agreements (<i>Exclusive Negotiations Agreement</i>)	Requesting Department/Finalist Offerors	March 31, 2023 April 28, 2023 May 31, 2023
17) *Contract Awards	Requesting Department/ Finalist Offerors	April 12, 2023 May 12, 2023 June 8 or 29, 2023
18) *Protest Deadline	Central Purchasing Office	+15 days

* Dates indicated in Events 12 through 18 are proposed and may be subject to change at the City's discretion without necessitating an amendment to this Solicitation.



City of Santa Fe, New Mexico



Date: August 3, 2023

To: Governing Body

From: Romella Glorioso-Moss, PhD, CPM, AICP, Capital Projects Manager *RGM*

Via: Regina Wheeler, Public Works Department Director *RW*

RE: Henry Lynch Road MAP Agreement

EXECUTIVE SUMMARY:

The Resolution documents the City of Santa Fe's agreement with the Municipal Arterial Program, which is administered by the New Mexico Department of Transportation. The agreement includes terms to fund the planning, design, and reconstruction of Henry Lynch Road in an amount totaling \$151,655.

DISCUSSION

As stated in the Cooperative Agreement, which is attached to the proposed Resolution, the total project funding of one hundred and fifty one thousand, six hundred fifty-five dollars (\$151,655) is to be funded in proportional share by the NMDOT, which will contribute seventy-five percent (75%) or one hundred and thirteen thousand, seven hundred and forty-one dollars (\$113,741), and by the City, which will contribute twenty-five percent (25%) or thirty-seven thousand, nine hundred and fourteen dollars (\$37,914).

The agreement terminates on June 30, 2025. Acceptance of this funding requires a Resolution approved by the Governing Body.

The reconstruction of Henry Lynch Road from Rufina Street to Agua Fria Street includes pavement rehabilitation, the addition of buffered bike lanes, ADA-compliant sidewalks, curbs, gutters, and significant improvements of stormwater drainage facilities. The estimated total construction cost is five million dollars (\$5,000,000).

Project engineering and design started in April 2022, and will be completed in 2024.

ATTACHMENTS:

Resolution
Exhibit A Cooperative Agreement_L500561
Fiscal Impact Report

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2023-__

INTRODUCED BY:

Councilor Jamie Cassutt

Councilor Amanda Chavez

A RESOLUTION

ACCEPTING A MUNICIPAL ARTERIAL PROGRAM COOPERATIVE GRANT IDENTIFIED AS CONTROL NUMBER L500561 FOR THE PLANNING, DESIGN, CONSTRUCTION, RECONSTRUCTION, PAVEMENT REHABILITATION, CONSTRUCTION MANAGEMENT, DRAINAGE, AND MISCELLANEOUS IMPROVEMENTS OF THE HENRY LYNCH ROAD RECONSTRUCTION PROJECT.

WHEREAS, the City of Santa Fe (“City”) completed a Fiscal Year 2024 funding application in response to the New Mexico Department of Transportation’s (“NMDOT”) call for projects for Municipal Arterial Program (“MAP”), for designing and reconstructing Henry Lynch Road between Rufina Street and Agua Fria Road to accommodate bicycle lanes and ADA compliant sidewalks (“Project”); and

WHEREAS, the total estimated Project cost is one hundred fifty-one thousand, six hundred fifty-five dollars (\$151,655), planned to be funded in proportional share by NMDOT and the City; and

WHEREAS, NMDOT’s share is seventy-five percent (75%) or one hundred and thirteen

1 thousand, seven hundred and forty one dollars (\$113,741); and

2 **WHEREAS**, the City’s proportional matching share is twenty-five percent (25%) or thirty-
3 seven thousand, nine hundred and fourteen dollars (\$37,914); and

4 **WHEREAS**, the City is willing to pay all costs of the Project that exceed the total amount
5 of one hundred and fifty-one thousand, six hundred and fifty-five dollars (\$151,655); and

6 **WHEREAS**, the proposed agreement regarding the foregoing terms is a Cooperative
7 Agreement between NMDOT and the City, control number L500561, which would terminate on
8 June 30, 2025.

9 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
10 **CITY OF SANTA FE** that the Governing Body supports the administration of MAP funding
11 granted through the NMDOT.

12 **BE IT FURTHER RESOLVED** by the City of Santa Fe accepts responsibility for the
13 Project; assumes the lead role in project design and development of the Project; and agrees to the
14 MAP cooperative agreement's terms, conditions, certifications, and reporting requirements of
15 Exhibit A, Cooperative Agreement, control number L500561.

16 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2023.

17
18
19 _____
20 ALAN WEBBER, MAYOR

21
22 ATTEST:

23
24 _____
25 KRISTINE MIHELIC, CITY CLERK

1 APPROVED AS TO FORM:

2 Erin McSherry

Erin McSherry (Aug 3, 2023 15:50 MDT)

3 ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/2023/Resolutions/Henry Lynch Road MAP Agreement*

Exhibit A

Contract No. _____
Vendor No. 0000054360
Control No. HW2L500561

MUNICIPAL ARTERIAL PROGRAM COOPERATIVE AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and City of Santa Fe (Public Entity), collectively referred to as the “parties.” This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2 and the State Transportation Commission Policy No. 44, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the **Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage and Misc. Improvements**. This Project will be referred to interchangeably as "Project" or "Project Control No. **L500561**." The Project is a joint and coordinated effort for which Department and the Public Entity each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

- a. For purpose stated above, the estimated total cost for the Project is One Hundred Fifty One Thousand Six Hundred Fifty Five Dollars and No Cents (**\$151,655**) to be funded in proportional share by the parties as follows:

1. Department’s share shall be 75%: \$113,741

Planning, Design, Construction, Reconstruction, Pavement Rehabilitation,
Construction Management, Drainage and Misc. Improvements

2. Public Entity’s required proportional matching share shall be 25%: \$37,914

3. Total Project Cost: \$151,655

- b. The Public Entity shall pay all Project costs, which exceed the total amount of One Hundred Fifty One Thousand Six Hundred Fifty Five Dollars and No Cents (**\$151,655**).
- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay project funds as identified in Section 2, Paragraph a1, to the Public Entity in a single lump sum payment after:

- a. Receipt of a cover letter requesting funds;
- b. Receipt of a Notice of Award (or Work Order) and Notice to Proceed;
- c. Receipt of Estimated Summary of Costs and Quantities;
- d. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a2; and
- e. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Pay all costs, perform all labor and supply all material, except as provided in Section 2, for the purpose as described in Section 1 and the construction work specified in the Project's plans.
- c. Adopt a written Resolution of support for the Project, including an assumption of ownership, liability, and maintenance responsibility for the scope, or related amenities and required funding to support the Project, which is attached as **Exhibit C**.
- d. Initiate the preliminary engineering, survey, and all design activities, and coordinate Project construction.
- e. Consider provisions for pedestrian, bicycle and equestrian facilities in the Project design in accordance with NMSA 1978, Section 67-3-62.
- f. In accordance with project parameters, assume the lead planning and implementation role and sole responsibility for providing local matching funds; environmental, archaeological, utility clearances; railroad and Intelligent Transportation System (ITS) clearances; right-of-way acquisition; project development and design; and project construction and management.
- g. Initiate and cause to be prepared the necessary Plans, Specifications, and Estimates (PS&E) for this Project.
- h. Cause all designs and PS&Es to be performed under the direct supervision of a Registered New Mexico Professional Engineer.
- i. Design the Project in accordance with **Exhibit A**, "Minimum Design Standards", which is incorporated into this Agreement.
- j. Adhere to **Exhibit B**, "Minimum Survey and Right of Way Acquisition Requirements", which is incorporated into this Agreement.
- k. Comply with **Exhibit C**, "Construction Phase Duties and Obligations", which is incorporated into this Agreement.
- l. Make no changes in design or scope of work, unless for safety reasons and with documented approval of the Department.
- m. Prior to Project construction, furnish the Department's District 5 Office the "**Certification of the Pre-Construction Contract Phase**" form, which is attached as Certification No. 1.
- n. Within thirty (30) calendar days of completion, furnish the Department's District 5 Office the "**Certification of Construction Phase**" form, which is attached as Certification No. 2.
- o. Within thirty (30) calendar days of completion, furnish the Department's District 5 Office the "**AS BUILT Summary of Costs and Quantities**" form, which is attached as Certification No. 3. The report should reflect the total cost of project as stated in "**Certification of Construction Phase**" form.

- p. Failure to timely provide Certification Nos. 1, 2 and 3, listed above, will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this Agreement.
- q. Obtain all required written agreements or permits relating to any realignment of Public Entity's roads, when applicable, from all public and private entities.
- r. Advertise, let, and supervise the construction of the Project.
- s. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
- t. Allow the Department to perform a final inspection of the Project to determine if the Project was constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet requirements and standards as determined by the Department will result in termination of this Agreement, for default, including without limitation its costs for funding, labor, equipment, and materials.
- u. Upon completion, maintain all the Public Entity's facilities constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) calendar days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
- e. The provisions of the Tribal/Public Agency State Funding Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **June 30, 2025**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) calendar days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing thirty (30) calendar days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this agreement.

- c. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4u and 5.

8. Third Party Beneficiary.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. Liability.

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq.*, and any other applicable law.

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance and endorsements listing the Department as an additional insured must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents will be valid or enforceable unless included in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws

governing civil rights, equal opportunity compliance, environmental issues, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree 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 and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age, disability, or other protected class, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the Public Entity is found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies, subject to Section 7 above.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) calendar days. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) calendar days of written notification.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be altered, modified, or amended by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

Recommended By District 5

By: _____
District Engineer

Date: _____

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: _____
Assistant General Counsel

Date: _____

City of Santa Fe

By: _____

Date: _____

Title: Mayor

Attest: _____
Kristine Mihelcic, City Clerk

Approved as to form and legal sufficiency by the City's Attorney

Marcos Martinez
Marcos Martinez (Jul 12, 2023 15:31 MDT)

Marcos Martinez, Senior Asst. City Attorney

Date: Jul 12, 2023

Approved for finances

Emily K. Oster, CPA, CGMA, CPO
Finance Director

Date: _____

EXHIBIT A
Minimum Design Standards

1. The design shall provide for all facilities as required by law (ADA compliance, bicycle paths, etc.).
2. The pavement shall be designed for a 20-year life as a minimum for new construction or reconstruction, or for a 10-year life as a minimum for rehabilitation.
3. The following documents shall be used as a minimum in the design of this Project:
 - a. FHWA Manual of Uniform Traffic Control Devices, Current Edition as amended;
 - b. AASHTO A Policy on Geometric Design of Highways and Streets, Current Edition ("Green Book");
 - c. AASHTO Guide for the Development of Bicycle Facilities, Current Edition;
 - d. DEPARTMENT'S Regulations for Driveway and Median Opening on Non-Access Controlled Highways, Current Update;
 - e. DEPARTMENT'S Urban Drainage Design Criteria;
 - f. DEPARTMENT'S Geotechnical Manual, Current Update;
 - g. DEPARTMENT'S Action Plan;
 - h. DEPARTMENT'S Tribal/Public Agency State Funding Handbook; Current Edition;
 - i. DEPARTMENT'S Handbook of Hazardous Waste Management, Current Edition;
 - j. DEPARTMENT'S Location Study Procedures;
 - k. AASHTO Guide to Design of Pavement Structures, Current Edition, and;
 - l. Other design publications as outlined in the DEPARTMENT'S Tribal/Public Agency State Funding Handbook.
 - m. The **Public Entity** may use **Public Entity** established local design standards if approved by the District Engineer, for each Project.

EXHIBIT B

Minimum Survey and Right of Way Acquisition Requirements

1. Establish and permanently reference stations and monuments.
2. Determine and record sufficient topography to assure all relevant landmarks are shown. Include items such as buildings, sidewalks, driveways, walls, trees, etc.
3. Obtain and plot existing profile grade and cross-sections where necessary. Plot curb profiles as needed.
4. All utilities above and below ground and their owners shall be shown.
5. The surveyor shall verify, ascertain, and certify the right-of-way design plans.
6. All surveying and right-of-way mapping is to be performed in accordance with the **DEPARTMENT'S** Surveying Requirements, Current Edition, and Minimum Standards for Surveying, NMSA 1978, Sections 61-23-1 to 61-23-32.
7. All **DEPARTMENT** Right of Way Handbooks, particularly Right of Way Handbook (Current Edition, Local Public Agencies), shall be adhered to for all R/W operations, including Title Search, Property Survey, Right of Way Mapping, Appraisal, Appraisal Review, Acquisition (including donations), Relocation, and Right of Way Certification. Only qualified personnel may undertake Right of Way functions. **Public Entity** staff or consultants may not be used to perform any R/W functions unless the **Public Entity** certifies that each individual is qualified to perform each individual right of way activity, such as Title search, property survey, mapping, appraisal, etc. Right of Way operations shall conform to State statutes and Federal regulations. Future Federal funding for Project shall be jeopardized if right of way operations do not conform to State statutes and Federal regulations.
8. Obtain and prepare Title Reports that meet **DEPARTMENT** format and standards, for all affected R/W parcels.
9. Right of Way mapping shall be done in accordance with the "Attachment 2" checklist of the **DEPARTMENT'S** Right of Way Mapping Development Procedures Current Update. The surveyor shall verify and certify the checklist and the Right of Way maps.
10. Appraisals shall not begin until the **Public Entity** has 100% complete R/W maps. **Public Entity** or contracted (fee) appraisers shall not be used unless fully qualified.
11. Appraisal Reports shall be prepared in conformance with Federal and Statutes and regulations. In

no event shall the appraisal review function be contracted to a consultant. One purpose of appraisal review is to assure that the appraisal meets **DEPARTMENT** requirements prior to the initiation of acquisition.

12. **Public Entity** or contracted (fee) negotiators shall not be used unless fully qualified.
13. The **Public Entity** shall maintain all records and documents relating to the Right of Way acquisition for a minimum of five (5) years, and shall record all transfer of ownership documents with the County Clerk. **DEPARTMENT** personnel shall be provided access to Project R/W files upon reasonable notice.
14. The **Public Entity** shall furnish the **DEPARTMENT** with a written certification (R/W Certification) stating that Right of Way acquisition (and relocations, if applicable) has been performed in compliance with Federal and State laws and regulations.

EXHIBIT C

Construction Phase Duties and Obligations

1. The **Public Entity** shall be responsible for all construction engineering, including Project supervision, surveying, inspection and testing when surveying and testing are not contracting items.
2. The **Public Entity's** general conditions, standard drawings and specifications may be used if approved by the **DEPARTMENT'S** District Engineer.

CERTIFICATION NO. 1
CERTIFICATION OF THE PRE-CONSTRUCTION CONTRACT PHASE

Control No. L500561

I, _____, in my capacity as _____ of _____ do hereby certify with reference to the aforementioned Project Control Number as follows:

1. That the **Public Entity** has complied with the terms and conditions of the pre-construction phase requirements set forth in this Agreement.
2. That the design for this Project is in compliance with all state laws, rules, regulations, and local ordinances and in the rules and regulations of the **DEPARTMENT**.
3. The **Public Entity** (including, but not limited to, Temporary Construction Permits and Construction Maintenance Easements) has acquired that all necessary right(s)-of-way for the construction or reconstruction of this Project in compliance with the **DEPARTMENT’S Right of Way Handbook (Current Edition) Local Public Agencies**, and Exhibit B.
4. That all utilities within the location of this construction Project (check one or both of the following conditions):
___ a. have been relocated
___ b. are scheduled for relocation prior to or concurrent with construction of this Project and have been coordinated with the appropriate utility.
5. That the **Public Entity** has encumbered the necessary funds to complete the Project.
6. That the **Public Entity** has fully complied with the requirements of NMSA 67-3-62.
7. That roadway(s) and intersection(s) shall operate at a minimum Level of Service of C or D (LOS C or D) for the Projected 20 year design traffic volumes as specified in **A Policy on Geometric Design of Highways and Streets**, (Current Edition).
8. That traffic data collection, traffic projections, and traffic impact studies on this Project have been developed in conformance with the **DEPARTMENT’S New Mexico Traffic Survey and Standards** (Current Edition).
9. That no angle parking has been provided in this Project.
10. That the **Public Entity** has completed a (check, which of the following conditions exists):

- _____ a. 20 year pavement design; or
 - _____ b. 10 year pavement design with provision for extending the pavement life to 20 years, and has incorporated it in the plans and specifications for this Project.
- 11. That the **Public Entity** has completed a Project drainage report, which meets the **DEPARTMENT'S** minimum drainage criteria as referenced in the **DEPARTMENT'S Drainage Manual**.
- 12. All drainage costs have been prorated between the **DEPARTMENT** and the **Public Entity** if applicable, according to the **DEPARTMENT'S Drainage Policy and Administrative Memorandum** (Current Update) and prorated calculations have been approved in writing by the **DEPARTMENT'S** Drainage Section.
- 13. That the **Public Entity** has completed all required Environmental Documentation and clearances for this Project using guidance contained in the **DEPARTMENT'S Action Plan**, (Current Edition).
- 14. That the **Public Entity** has completed all required Archaeological Documentation and clearances for this Project using guidance contained in the **DEPARTMENT'S Action Plan**, (Current Edition).
- 15. That the following attached Agreement(s) have been executed, when required, for construction or reconstruction of this Project (attach copies to this certification):
 - a. Lighting;
 - b. signalization;
 - c. storm sewer and lift station;
 - d. landscape;
 - e. road exchange; and
 - f. any other applicable agreements.
- 16. That the **Public Entity** has complied with and certifies compliance with all applicable provisions of Exhibit A.
- 17. That this certification procedure has been executed prior to advertisements for contract bids or commencement of this Project.

IN WITNESS WHEREOF, _____ in his/her capacity as _____ of _____ does hereby certify that the aforementioned matters stated herein are true to his/her knowledge and belief and does hereby set his/her hand and seal this day and year specified below:

City of Santa Fe

By: _____ Date: _____
Mayor

ATTEST:

By: _____ Date: _____
Public Entity Clerk

When completed, send Certification No. 1 to:

District LGRF Coordinator
Department of Transportation

CERTIFICATION NO. 2

CERTIFICATION OF THE CONSTRUCTION PHASE

Control No. L500561

I, _____, in my capacity as _____ of _____ do hereby certify with reference to the aforementioned Project Control Number as follows:

- 1. That the **Public Entity** has complied with the terms and conditions of the construction phase requirements under this Agreement.
- 2. That the **Public Entity** has complied with and certifies that the Project plan complies with all publications identified in Exhibit A.
- 3. That all work in Control No. **L500561** was performed in accordance with the Agreement.
- 4. That the total Project cost of _____, with New Mexico Department of Transportation “**DEPARTMENT**” 75% share of _____ and the **Public Entity** share of _____ (as submitted in attached “As Built Summary of Costs and Quantities”) is accurate, legitimate, and appropriate for the Project.
- 5. That the construction of the Project was completed on _____ of _____, 20[#]

IN WITNESS WHEREOF, _____ in his/her capacity as _____ of _____ does hereby certify the aforementioned matters stated herein are true to his/her knowledge and belief and does hereby set his/her hand and seal this day and year specified below:

City of Santa Fe

By: _____ Date: _____
Mayor

ATTEST:

By: _____ Date: _____
Public Entity Clerk

When completed, send Certification No. 2 to:

District LGRF Coordinator, Department of Transportation

**AS BUILT SUMMARY
OF COSTS AND QUANTITIES
CONTRACT**

ENTITY: _____ No.: _____ CN: _____

PROJECT No.: _____

TERMINI: _____

SCOPE OF WORK: _____

ITEM NO.	ITEM DESCRIPTION	UNIT	ESTIMATED QUANTITY	FINAL QUANTITY	UNIT COST	FINAL COST

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Henry Lynch Road MAP Agreement

Sponsor(s): Councilor Jamie Cassutt, Councilor Amanda Chavez

Reviewing Department(s): Public Works

Staff Completing FIR: Romella Glorioso-Moss **Date:** 07/12/2023 **Phone:** (505) 955-6623

Reviewed by City Attorney: *Erin McSherry* **Date:** Aug 3, 2023
Erin McSherry (Aug 3, 2023 15:50 MDT)

Reviewed by Finance Director: *Emily K. Oster* **Date:** Aug 3, 2023
Emily K. Oster (Aug 3, 2023 22:25 MDT)

Summary:

This Resolution specifies the conditions for accepting Municipal Arterial Program funding administered by the New Mexico Department of Transportation for a project with a total estimated cost of \$151,655 for planning, design, reconstruction, pavement rehabilitation, etc. of Henry Lynch Road. The program funding is depending upon an agreement to share the costs proportionately between NMDOT, which will contribute seventy-five percent, and the City, which will contribute twenty-five percent, to the total amount. The proposed funding agreement would terminate on June 30, 2025.

Departments Affected:

Public Works Department

Consequences of Not Enacting Legislation:

If this legislation is not adopted, the City will not receive additional funding to design and reconstruct Henry Lynch Road.

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

The City accepted a Transportation Project Fund for \$450,000 for the engineering and design of this project when it passed in Resolution 2021-68.

Performance and Administrative Implications:

Complete Streets Division staff (Roadway and Trails) will continue to administer the project.

Fiscal Implications:

The City's share of the funding is twenty-five percent or \$37,914.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 24	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	\$ _____	\$ _____	\$ _____	_____	_____	_____	
Capital Outlay	\$151,655	\$ _____	\$ _____	Y	NR	NMDOT	
Contractual/ Professional Services	\$ _____	\$ _____	\$ _____				
Operating	\$ _____	\$ _____	\$ _____				\$ _____
Total:	\$ _____	\$ _____	\$ _____				\$ _____

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

Expenditure Narrative:

A total of \$151,655 will be spent on professional services for designing and reconstructing Henry Lynch Road.

Revenue

Revenue Type	FYE 24	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ X	\$ _____	\$ _____	NR	NMDOT
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

Revenue Narrative:

The funding of \$113,741 is one-time funding from NMDOT via their Municipal Arterial Program.

Signature:

Email: rawheeler@santafenm.gov



City of Santa Fe, New Mexico

Memorandum



Date: July 24, 2023

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

From: Julie Sanchez, Youth and Family Division Director *jjs*

Via: Kyra Ochoa, Community Health and Safety Director *KO*

RE: Reconvening the Health and Safety Task Force

EXECUTIVE SUMMARY:

The proposed Resolution would allow the Health and Safety Task Force to reconvene for one meeting, to be held within a month from the date of the Resolution's adoption, to approve recommendations.

BACKGROUND:

Resolution 2020-29 was adopted on July 29, 2020, which created a Community Health and Safety Task Force. Resolution 2021-17 amended the previous Resolution to extend the work to the end of calendar year 2021, to allow for additional Task Force members, to exempt the Task Force from certain Open Meetings Act criteria, and other changes as needed. Resolution 2021-73 extended the work of the Task Force through calendar year 2022. Resolution 2022-60 extended the work for the task force through June 30, 2023.

DISCUSSION:

The individuals who participated in the Task Force would like to formally reconvene to adopt a report and recommendations. In order for them to do so, the Governing Body must reconvene the Task Force.

ATTACHMENTS:

Resolution
Fiscal Impact Report

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2023-__

INTRODUCED BY:

Councilor Renee Villarreal

Councilor Chris Rivera

A RESOLUTION

RECONVENING THE COMMUNITY HEALTH AND SAFETY TASK FORCE FOR A SINGLE MEETING FOR THE PURPOSE OF ADOPTING THE TASK FORCE’S FINAL REPORT AND RECOMMENDATIONS.

WHEREAS, the Community Health and Safety Task Force (“Task Force”) was established by Resolution 2020-29 to examine ways in which the City of Santa Fe’s (City’s) community health and safety services can work together as complementary parts of an overall strategy for the benefit of all residents of Santa Fe; and

WHEREAS, Resolution 2021-17 extended the duration of the Community Health and Safety Task Force through the end of calendar year 2021, provided for additional task force members, changed the task force composition, and exempted the task force from certain Open Meetings Act requirements, and other changes as necessary; and

WHEREAS, Resolution 2021-73 extended the Task Force until the end of calendar year 2022; and

WHEREAS, Resolution 2022-60 extended the Task Force until June 30, 2023, to allow

1 the Task Force to complete its duties and responsibilities; and

2 **WHEREAS**, the Task Force has a draft final report and recommendations and members
3 of the Task Force have requested to reconvene to adopt the report and recommendations; and

4 **WHEREAS**, the Governing Body wishes that the Task Force meet for one additional
5 meeting for the purpose of adopting a final report and recommendations.

6 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
7 **CITY OF SANTA FE** that the Task Force is reconstituted for the purpose of reconvening within
8 one month from the date of adoption of this Resolution to adopt the Task Force’s final report and
9 recommendations.

10 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2023.

11 _____
12
13
14 ALAN WEBBER, MAYOR
15

16 ATTEST:

17 _____
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19 KRISTINE MIHELICIC, CITY CLERK

20 APPROVED AS TO FORM:

21 *Erin McSherry*
22 Erin McSherry (Aug 4, 2023 13:53 MDT)

23 ERIN K. McSHERRY, CITY ATTORNEY
24

25 *Legislation/2023/Resolutions/Reconvening the Health and Safety Task Force*

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Reconvening the Health and Safety Task Force

Sponsor(s): Councilor Renee Villarreal, Councilor Chris Rivera

Reviewing Department(s): Community Health and Safety Department, City Attorney's Office

Staff Completing FIR: Julie Sanchez **Date:** July 26, 2023 **Phone:** (505) 955-6678

Reviewed by City Attorney: *Erin McSherry* **Date:** Aug 4, 2023
[Erin McSherry \(Aug 4, 2023 13:53 MDT\)](#)

Reviewed by Finance Director: *Emily K. Oster* **Date:** Aug 4, 2023
[Emily K. Oster \(Aug 4, 2023 16:06 MDT\)](#)

Summary:

This Resolution grants the Community Health and Safety Task Force ("Task Force") thirty days, from the date of the Resolution's adoption, to convene for a single meeting in order to adopt its final report and recommendations.

Departments Affected:

Community Health and Safety Department

Consequences of Not Enacting Legislation:

If this legislation is not adopted, the Task Force will not be able to publicly approve and present its recommendations.

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

Task Force creation Resolution 2020-29; Amendment 1 Resolution 2021-17; Amendment 2 Resolution 2021-73; Amendment 3 Resolution 2022-60

Performance and Administrative Implications:

Staffing and contract administrative oversight will continue for thirty days from the time of Resolution's approval.

Fiscal Implications:

Funding for one month of facilitation services is available.

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
<u>Personnel and Benefits*</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Capital Outlay</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Contractual/</u>	\$110,000	\$ _____	\$ 2,500	N	NR	100	
<u>Professional Services</u>			_____				
<u>Operating</u>	\$ _____	\$ _____	\$ _____		_____	_____	\$ _____
<u>Total:</u>	\$110,00	\$ _____	\$ _____				\$ _____

* 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:

N/A

Signature: 
Julie Sanchez (Aug 4, 2023 16:29 MDT)
Email: jjsanchez@santafenm.gov

Signature: 
Kyra Ochoa (Aug 4, 2023 16:31 MDT)
Email: krochoa@ci.santa-fe.nm.us



City of Santa Fe, New Mexico

Memorandum



Date: August 7, 2023

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

From: Marci Eannarino, Manager of Legislation and Policy Innovation ME

Via: Erin McSherry, City Attorney EM

RE: Mayoral Voting Rights

EXECUTIVE SUMMARY:

The proposed Resolution would submit a question to the ballot during the regular, local election, to be held November 7, 2023, asking voters to determine whether the City's Charter, Section 5.01 "Powers and Duties of the Mayor" should be amended such that the mayor would vote only when there is a tie among city councilors. Currently, the Mayor has a "vote on all matters that come before the governing body." The Resolution notes that the Charter Commission's proposal in its entirety "represents changes that require additional time for review and consideration" and that this amendment would be identified as a "first step to considering the remainder of the recommendation," by putting forward a "limited version" of the full recommendation.

BACKGROUND

The Mayor's right to vote has been modified twice previously by the City's voters: initially fifteen years ago, in 2008, changing a limitation to voting on ties to allow the Mayor to vote "when his or her vote will provide the necessary number of votes required by law for taking action on an issue before the governing body" and then in 2014, to allow the Mayor to vote on all matters.

DISCUSSION:

The Charter Commission's full recommendation related to powers of city branches described a vision in which the City's government would feature "the separated and balanced powers of its branches, legislative and executive." As relates to the balance of power insofar as voting authority is concerned, the full proposal included the following characteristics:

- A legislative branch wherein the city council would serve as "the principal policy maker of the city."
- A mayor who would "function as the political leader, public convenor, and head of city government for all purposes, including but not limited to facilitating, as may be possible, cooperation among all stakeholders in government and private sector to solve the major challenges facing the city, and enlisting the support of the council to add legislative framework as may be necessary."
- A mayor who would "join the city council as the governing body, with voice and vote, to break tie votes".
- A mayor who would "sign, veto, or allow to become law without signature, each ordinance adopted by the council" and where the signature or veto "would be exercised within 30 days of the ordinance adoption."
- City council authority to "override a mayoral veto by a supermajority of the total possible members voting to do so."

As the Resolution proposes retaining all other mayoral duties while limiting the Mayor's vote to ties. It also describes the proposed ballot measure as representing a "first step" to considering the remainder of the Charter Commission's recommendation. Whether or not singling out the Mayor's voting rights is a logical first step is



City of Santa Fe, New Mexico

Memorandum



unclear, given that the Charter Commission's stated vision was a holistic restructuring purposed for a clarified balance of powers in the City's government.

The Resolution neither articulates a rationale for reverting the Mayor's voting rights to their state in 2008 nor explains what is addressed by removing the Mayor's role as a full voting member of the governing body. It is not clear why the proposal is the ideal "first step" to considering the rest of the Charter Commission's vision.

BACKGROUND:

The process for placing a question on the ballot considers the following items:

- The City's Charter states "10.02. - Charter amendment or repeal. This Charter may be amended or repealed as provided by law."
- State law, NMSA 1978, Section 3-15-16, states that a home rule municipality may amend its Charter "by a proposal submitted by the Governing Body of the municipality to the qualified electors."
- Therefore, a Resolution adopted by the Governing Body describing a proposed ballot question is the mechanism the City uses to document that it wishes to submit a proposal to the electors.

ATTACHMENTS:

Resolution
FIR

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2023-__

INTRODUCED BY:

Councilor Michael Garcia

A RESOLUTION

PROPOSING A BALLOT QUESTION TO BE SUBMITTED TO THE CITY’S VOTERS DURING THE NOVEMBER 7, 2023, REGULAR LOCAL ELECTION REGARDING AMENDING THE CITY’S CHARTER TO ONLY ALLOW THE MAYOR TO VOTE WHEN THERE IS A TIE AMONG CITY COUNCILORS.

WHEREAS, pursuant to Section 10.01, the City of Santa Fe’s Charter (“Charter”) requires the appointment of a Charter Review Commission (“Commission”) at least every ten years; and

WHEREAS, the Governing Body adopted Resolution 2022-40 on July 27, 2022, identifying nine topics the Commission should consider; and

WHEREAS, two of the nine topics the Governing Body asked the Commission to consider were “whether the City’s Mayor should have a more purely executive role, rather than both legislative and executive roles and, if so, what new rights and limitations should be adopted along with such a separation of powers”, as well as “whether the roles of the mayor, councilors and city manager should be better defined and, if so, how”; and

WHEREAS, the Governing Body appointed members to the Commission in October

1 2022; and

2 **WHEREAS**, the Commission met from November of 2022 through May of 2023, to
3 deliberate about and consider the details of more than fifteen proposals to amend the Charter; and

4 **WHEREAS**, the Commission received public comment in person, by videoconferencing,
5 in writing, and through the Commission’s webpage; and

6 **WHEREAS**, the Commission produced a final report detailing its recommendations and
7 presented the report to the Governing Body on May 10, 2023 (“Final Report”); and

8 **WHEREAS**, according to the Final Report, “the Commission recommends six substantive
9 amendments be placed on the ballot for the November 2023 election”; and

10 **WHEREAS**, the Commission recommended that Articles V, VI, VII and VIII of the City’s
11 Charter be condensed into a single Article V and amended to read as follows:

12 **ARTICLE V. – GOVERNANCE**

13 Balance and Separation of Powers: City government in Santa Fe shall be
14 defined by this Charter, and specifically by the separated and balanced powers of
15 its branches, legislative and executive.

16 **[Article VI] 5.01 The Legislative Branch**

17 **THE CITY COUNCIL**

18 **[6.01:] 5.01 The Legislative Branch, Composition**

19 There shall be a city council composed of elected councilors representing
20 districts as provided herein. The members of the [governing body, exclusive of
21 the mayor] city council shall be known and designated as councilors. The mayor
22 and the councilors when acting together [are] may be referred to as the governing
23 body of the city.

24 **[6.02:] The Legislative Branch, Powers, and Duties**

25 A. The [governing body] city council shall serve as the principal policy maker of the

1 city, and shall, as necessary, amend existing policies that are consistent with
2 other provisions of the [C] charter. The ~~[governing body]~~ council shall consider
3 the ~~[legislative]~~ agenda put forth by the mayor and propose amendments to
4 existing policies and propose new policies.

5 B. All legislative powers of the city shall be vested in the ~~[governing body,]~~ city
6 council except as otherwise required by law or this [C] charter. The ~~[governing~~
7 ~~body]~~ city council shall provide for the exercise of its powers and for the
8 performance of all duties and obligations imposed on the city by law.

9 C. ~~[The governing body shall by ordinance fix the annual salaries of the municipal~~
10 ~~judge and councilors and shall review those salaries not less than every four~~
11 ~~years.]~~ The city council shall select from among its members a presiding officer,
12 who may or may not also be the mayor *pro-tempore*.

13 D. ~~[The governing body shall by ordinance establish an independent salary review~~
14 ~~commission whose sole purpose shall be to review and set the mayor's salary.~~
15 ~~The independent salary review commission shall review the mayor's salary no~~
16 ~~less than every four years.]~~ The city council shall select from among its members
17 a finance committee and may select from among its members other committees
18 to facilitate its work.

19 E. ~~[The governing body shall by ordinance set a policy for reimbursement of the~~
20 ~~actual and necessary expenses incurred by the mayor, the municipal judge and~~
21 ~~city councilors]~~ The city council may override a mayoral veto by a super-
22 majority of the total possible members voting to do so.

23 ~~[5.04.]~~ F. Mayor *pro-tempore*.

24 At the first meeting of the council following a regular city election [5] the mayor
25 shall appoint, subject to the approval of the council, a councilor to serve as mayor

1 *pro tempore* until the next regular city election. The mayor pro tempore shall
2 perform the duties of the mayor in the absence or temporary incapacity of the
3 mayor and continue as a member of the council.

4 ~~[C.]~~ G. The city council shall by ordinance fix the annual salaries of the municipal
5 judge
6 and councilors and shall review those salaries not less than every four years.

7 ~~[D.]~~ H. The ~~[governing body]~~ city council shall by ordinance establish an
8 independent salary review commission whose sole purpose shall be to review and
9 set the mayor's salary. The independent salary review commission shall review
10 the mayor's salary no less than every four years.

11 ~~[E.]~~ I. The ~~[governing body]~~ city council shall by ordinance set a policy for
12 reimbursement of the actual and necessary expenses incurred by the mayor, the
13 municipal judge and city councilors.

14 ~~[F.]~~ J. The ~~[governing body]~~ city council shall consider and take action throughout
15 the year on the mayor's legislative agenda.

16 ~~[6.03.]~~ The Legislative Branch, City Council Districts

17 The city shall be divided into four dual-member districts numbered one through
18 four. District boundaries shall be reviewed and revised at least every ten years
19 following the decennial census by an independent citizens' redistricting
20 commission. The governing body shall, by ordinance, establish a procedure for
21 the appointment and deliberations of the commission which will, to the
22 maximum practicable extent, ensure that the commission's decisions will be
23 based exclusively on the following principles in the following order of priority:

24 A. Each district shall contain as nearly as possible substantially the same
25 population based upon the most recent federal census[;] .

- 1 B. Districting plans must avoid dilution of minority voting strength[;] .
- 2 C. Communities of interest, including those based upon ethnic and economic
- 3 factors, shall be preserved within a single district whenever reasonable[;] .
- 4 D. Each district shall be formed of compact, contiguous territories. The total
- 5 length of all district boundary lines shall be as short as possible[;].
- 6 E. Districting plans shall compensate for U.S. census undercount of minorities.

7 Legislative Branch, Conditions of Service

8 [~~6.04.~~] A. Eligibility.

9 Registered voters who reside in the district shall be eligible to run for the office

10 of councilor from that district.

11 [~~6.05.~~] B. Term of office.

12 Councilors shall be elected for a term of four years. The terms of office of the

13 two councilors from each district shall be staggered so that one councilor shall be

14 elected from each district at each regular municipal election.

15 [~~6.06.~~] C. Vacancies in office.

16 The office of a councilor shall become vacant upon the member's death,

17 resignation, termination of residency in the district from which elected, or

18 removal from office in any manner authorized by law or this charter. When such

19 a vacancy occurs, the mayor shall within thirty days appoint a qualified elector

20 from the district in which the vacancy has occurred to serve until the next regular

21 city election, at which time a qualified elector shall be elected to fill the

22 remaining unexpired term, if any. The governing body shall approve or

23 disapprove the mayor's appointment not later than its second regularly scheduled

24 meeting after the appointment.

25 [~~6.07.~~] D. Grounds for removal from office.

1 A councilor may be removed from office in accordance with applicable state law
2 or this Charter.

3 ~~[Article V]~~ **5.02 The Executive Branch**

4 THE MAYOR

5 ~~[5.01.]~~ Powers and Duties of the Mayor

6 The city shall have a mayor who shall:

- 7 A. Be elected at large by the voters of the city[;] .
- 8 B. ~~[Have a vote on all matters that come before the governing body;]~~ Provide
9 the city council, in person or by other means, with mayoral messages on
10 major matters under consideration by the council and be free to amend any of
11 the mayoral messages in light of the council's debate on the matters.
- 12 C. Be the chief executive officer of the city whose position shall be full-time[;].
13 The mayor shall function as the political leader, public convenor, and head of
14 city government for all purposes, including, but not be limited to:
- 15 • facilitating, as may be possible, cooperation among all stakeholders in
16 government and the private sector to solve the major challenges facing the
17 city, and
 - 18 • enlisting the support of the council to add legislative framework as may be
19 necessary.
- 20 D. Earn ~~[an initial salary of \$74,000.00 until such time that an independent salary~~
21 ~~commission is established by city ordinance and such commission sets the salary for~~
22 ~~mayor;]~~ a salary set by an independent commission as created by ordinance.
- 23 E. Appoint, with the consent of ~~[the governing body]~~ a majority of the total possible
24 membership of city council: [;] the city manager, city attorney, city clerk, and members
25 of advisory commissions[;] , except as otherwise provided in the charter.

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- F. ~~[Exercise supervisory authority over the]~~ Supervise the city manager, city attorney and city clerk[;] .
- G. Have the sole authority to remove the ~~[city manager, city attorney and city clerk without council approval;]~~ city clerk, the authority to remove the city manager with consent of a majority of the total possible membership of the city council at a regularly scheduled meeting and may remove the city attorney with the consent of six members of the city council.
- H. ~~[Cause the ordinances and regulations of the city to be faithfully and constantly obeyed;]~~ Shall join the city council as the governing body, with voice and vote, to break tie votes.
- I. ~~[Have, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;]~~ Shall sign, veto, or allow to become law without signature, each ordinance adopted by the council. Signature or veto shall be exercised within 30 days of the ordinance adoption.
- J. ~~[Propose programs and policies to the governing body;]~~ Cause the ordinances and regulations of the city to be faithfully and constantly obeyed. (Moved from 5.01, section H.)
- K. ~~[Represent the city in intergovernmental relationships;]~~ Have, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace. (Moved from 5.01, section I.)
- L. ~~[Present an annual state of the city message which shall identify, among other matters, the mayor's legislative agenda for the upcoming year;]~~ Propose programs and policies to [the governing body;] city council. (Moved from 5.01, section J.)

1 M. [~~Work with city personnel and timely prepare an annual budget and proposed~~
2 ~~spending priority for review and approval by the finance committee and the~~
3 ~~governing body;~~] Represent the city in intergovernmental relationships.

4 (Moved from 5.01, section K.)

5 N. [~~Be recognized as head of the city government for all ceremonial purposes;~~
6 ~~and~~] Present an annual state of the city message which shall identify among
7 other matters[-] the mayor's legislative agenda for the upcoming year.

8 (Moved from 5.01, section L.)

9 O. Be recognized by the governor for purposes of military law.

10 Conditions of Service by the Mayor

11 [~~5.02.~~] A. Eligibility.

12 Registered voters who reside in the city shall be eligible to run for the office of
13 mayor.

14 [~~5.03.~~] B. Term of office.

15 The mayor shall be elected for a term of four years.

16 [~~5.04.~~] (Moved to section 5.01 as sub-header F under section "The
17 Legislative Branch, Powers, and Duties)

18 [~~5.05.~~] C. Vacancy in office.

19 The office of mayor shall become vacant upon the mayor's death, resignation,
20 termination of residency in the city, or removal from office in any manner
21 authorized by law or this charter.

22 When such a vacancy occurs, the mayor pro tempore shall serve as mayor until
23 the next regular city election. If the offices of both the mayor and the mayor pro
24 tempore are vacant, then a councilor shall be elected by the remaining members
25 of the governing body to serve as mayor until a special election can be held.

1 ~~[5.06.]~~ D. Grounds for removal from office.

2 A mayor may be removed from office in accordance with applicable state law or
3 this Charter.

4 ~~[Article VIII.]~~ THE CITY MANAGER

5 ~~[8.01.]~~ Appointment.

6 The city manager shall be appointed by the mayor with the consent of the
7 governing body.

8 ~~[8.02.]~~ Qualifications.

9 The city manager should be professionally trained and have the necessary
10 ~~[administrative]~~ operational and managerial skills to ~~[manage the municipality]~~
11 carry out the duties and responsibilities of the city manager. The council shall
12 adopt minimum and preferred demonstrated experience that shall be required for
13 the position.

14 ~~[8.03.]~~ Powers and duties.

15 The city manager shall:

16 A. Be the chief ~~[administrative]~~ operations officer of the city[;] .

17 B. Have the power to hire and fire all city employees, except for the city
18 attorney and city clerk~~[, and;]~~.

19 C. ~~[Have such other powers as are provided for in city ordinances and state~~
20 ~~law.]~~ Work with city personnel and timely prepare an annual budget and
21 proposed spending priority for review and approval by the finance committee and
22 the city council.

23 D. Provide for a program of public communication on behalf of the city,
24 informing the public of the on-going work of departments, including city-owned
25 enterprises, their successes, and outstanding challenges as well as the public's

1 interaction with the departments.

2 [~~C.~~] E. Have such other powers as are provided for in city ordinances and state
3 law.

4 [~~8.04.~~] Removal.

5 The city manager may be suspended or removed:

6 A. By the mayor with consent of a majority of the total possible
7 membership of city council at a regularly scheduled meeting,[~~;~~] or

8 B. By a vote of six councilors at a regularly scheduled meeting.

9 **[~~Article VII~~] 5.03 The Municipal Court**

10 [~~7.01.~~] A. Establishment.

11 There shall be a municipal court for the city, which shall be presided over by a
12 full-time municipal judge. The governing body may by ordinance authorize the
13 election of additional municipal judges.

14 [~~7.02.~~] B. Jurisdiction.

15 The municipal court shall have all jurisdiction provided under state law and city
16 ordinances.

17 [~~7.03.~~] C. Eligibility.

18 Registered voters who reside in the city and are licensed members of the New
19 Mexico Bar shall be eligible to run for the office of municipal judge.

20 [~~7.04.~~] D. Term of office.

21 The municipal judge shall be elected for a four-year term.

22 [~~7.05.~~] E. Vacancy in office.

23 The office of a municipal judge shall become vacant upon the judge's death,
24 resignation, termination of residency in the city or membership in the New
25 Mexico Bar, or removal from office in any manner authorized by law. In case of

1 such vacancy, the mayor with the consent of the governing body shall within
2 thirty days appoint a person who meets the eligibility requirements for the office
3 of municipal judge to serve until the end of the ~~unexpired~~ term of that municipal
4 judge.

5 [7.06.] F. Grounds for removal from office.

6 The municipal judge may be removed from office in accordance with applicable
7 state law.

8 [7.07.] G. Salary.

9 The governing body shall review and set salary for the municipal judge at least
10 every four years.

11 **WHEREAS**, the Commission’s recommendation does not align with the formatting of
12 existing code and therefore is not citable; for example, the legislative branch and the executive
13 branch and the municipal judge (judicial branch), under the proposal, would no longer be
14 described in distinct articles and each subsection would no longer be numbered 5.01, 5.02, etc.;
15 and

16 **WHEREAS**, the recommendation removes the concept of a governing body and replaces
17 it with the separate mayor and city council, but in several instances the recommendation also
18 maintains the phrase “governing body”; and

19 **WHEREAS**, the Final Report appears to leave in the use of governing body in at least
20 some places that it would be more internally consistent to use “city council”; and

21 **WHEREAS**, many other sections of the Charter, including 2.01, 2.02, 2.03, 2.05, and
22 many others, make reference to the Governing Body, and the Final Report does not address what
23 the intent is in relation to those sections; and

24 **WHEREAS**, Final Report recommendation on this topic includes significant changes to
25 powers, authorities, roles, and responsibilities of the mayor and city councilors; and

1 **WHEREAS**, the recommendation presents changes that require additional time for
2 review and consideration; and

3 **WHEREAS**, the Governing Body has identified the Mayor’s voting rights portion of the
4 commission’s recommendation as a first step to considering the remainder of the
5 recommendation; and

6 **WHEREAS**, the Mayor right to vote has been modified twice previously by the City’s
7 voters: initially in 2008, changing a limitation to voting on ties to allow the Mayor to vote “when
8 his or her vote will provide the necessary number of votes required by law for taking action on an
9 issue before the governing body” and then in 2014, to allow the Mayor to vote on all matters; and

10 **WHEREAS**, due to the foregoing reasons, the Governing Body wishes to pursue a
11 limited version of the recommendation regarding separation of powers, in particular, by limiting
12 the Mayor’s ability to vote only when there is a tie; and

13 **WHEREAS**, the Charter, Article X, Section 10.02, states that “[t]his Charter may be
14 amended or repealed as provided by law”; and

15 **WHEREAS**, state law, NMSA 1978, Section 3-15-16, states that a home rule
16 municipality may amend its Charter “by a proposal submitted by the governing body of the
17 municipality to the qualified electors”; and

18 **WHEREAS**, a resolution is the formal expression of the will of the Governing Body,
19 used by the City to describe a proposed ballot question and submit it to the electors; and

20 **WHEREAS**, NMSA 1978, Section 1-16-3, requires the City to “file a resolution proposing
21 the ballot question” with the county clerk, not less than seventy (70) days before the election at
22 which the ballot question is proposed to be submitted to the voters.

23 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
24 **CITY OF SANTA FE**, that that the Governing Body hereby proposes to submit the following
25 question on the ballot of the regular local election on November 7, 2023:

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MAYOR VOTING RIGHTS

Should the Santa Fe Municipal Charter Article, V, Section 5.01
be amended to only allow the Mayor to vote when there is a tie
among city councilors during Governing Body meetings?

For Against

BE IT FURTHER RESOLVED that should the electorate vote in favor of the above
ballot questions, that the Charter shall be amended as follows:

V. THE MAYOR

5.01 Powers and Duties of the Mayor

The city shall have a mayor who shall:

- A. Be elected at large by the voters of the city[;] .
- B. Have a vote on matters on which there is a tie vote among city councilors; [all
matters that come before the governing body;]
- C. Be the chief executive officer of the city whose position shall be full-time;
- D. Earn an initial salary of \$74,000.00 until such time that an independent salary
commission is established by city ordinance and such commission sets the salary for
mayor;
- E. Appoint with the consent of the governing body, the city manager, city attorney,
city clerk, and members of advisory commissions;
- F. Exercise supervisory authority over the city manager, city attorney and city
clerk;
- G. Have the authority to remove the city manager, city attorney and city clerk
without council approval;
- H. Cause the ordinances and regulations of the city to be faithfully and constantly
obeyed;

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I. Have, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

J. Propose programs and policies to the governing body;

K. Represent the city in intergovernmental relationships;

L. Present an annual state of the city message which shall identify, among other matters, the mayor's legislative agenda for the upcoming year;

M. Work with city personnel and timely prepare an annual budget and proposed spending priority for review and approval by the finance committee and the governing body;

N. Be recognized as head of the city government for all ceremonial purposes; and

O. Be recognized by the governor for purposes of military law.

BE IT FURTHER RESOLVED that the City Clerk shall submit this ballot question to the Santa Fe County Clerk no later than August 29, 2023.

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2023.

ALAN WEBBER, MAYOR

ATTEST:

KRISTINE MIHELIC, CITY CLERK

1 APPROVED AS TO FORM:

2 Erin McSherry

Erin McSherry (Aug 8, 2023 12:12 MDT)

3 ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/2023/Resolutions/Mayoral Voting Rights*

FISCAL IMPACT REPORT**General Information:**(Check) Bill: _____ Resolution: XShort Title(s): Mayoral Voting RightsSponsor(s): Councilor Michael GarciaReviewing Department(s): City Attorney's OfficeStaff Completing FIR: Marci Eannarino Date: August 7, 2023 Phone: (505) 955-6518Reviewed by City Attorney: *Erin McSherry* Date: Aug 8, 2023
Erin McSherry (Aug 8, 2023 12:12 MDT)Reviewed by Finance Director: *Emily K. Oster* Date: Aug 8, 2023
Emily K. Oster (Aug 8, 2023 12:18 MDT)**Summary:**

The proposed Resolution would submit a question to the ballot during the regular, local election, to be held November 7, 2023, asking voters to determine whether the City's Charter, Section 5.01 "Powers and Duties of the Mayor" should be amended such that the mayor would vote only when there is a tie among city councilors. Currently, the Mayor has a "vote on all matters that come before the governing body." The Resolution states that the Charter commission's proposal in its entirety "represents changes that require additional time for review and consideration" and that this amendment is a "first step to considering the remainder of the recommendation," by putting forward a "limited version" of the full recommendation.

Departments Affected:

If the Resolution is adopted, the City's Clerk's office would send the ballot question to the Santa Fe County Clerk no later than August 29, 2023.

Consequences of Not Enacting Legislation:

If this legislation is not adopted, no question will be placed on the ballot asking voters to contemplate an amendment to Section 5.01, "Powers and Duties of Mayor". This would mean the Mayor's voting authority would continue to "[h]ave a vote on all matters that come before the governing body", as is the current language in the City's Charter.

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

The Mayor's right to vote has been modified twice previously by the City's voters: initially in 2008, changing a limitation to voting on ties to allow the Mayor to vote "when his or her vote will provide the necessary number of votes required by law for taking action on an issue before the governing body" and then in 2014, to allow the Mayor to vote on all matters.

Performance and Administrative Implications:

This Resolution would require the City Clerk to present the ballot question to the Santa Fe County Clerk no later than August 29, 2023.

Fiscal Implications:

***The Resolution's fiscal implications are largely dependent upon approval by voters in November 2023. Should the Resolution be adopted by the Governing Body, the City Clerk would then present the approved ballot question to the Santa Fe County Clerk by August 29, 2023. In the event that the ballot question requires more than one page, the City would be required to pay the additional costs for any additional ballot pages.

Fiscal Impact

 X*** Check here if no fiscal impact

Expenditures

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

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

Expenditure Narrative:

See "Fiscal Implications" narrative above.

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: *Marci Annarino*

Email: maeannarino@santafenm.gov



City of Santa Fe, New Mexico

Memorandum



Date: July 19, 2023

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

From: Marci Eannarino, Manager of Legislation and Policy Innovation ME

Via: Erin K. McSherry, City Attorney EM

RE: Ballot Question Regarding Financial Management

EXECUTIVE SUMMARY:

If adopted, the proposed Resolution would submit a question to the City's voters on the November 7, 2023, ballot representing a limited version of the Charter Commission's full recommendation. The question would ask the electorate to determine whether or not Article IX of the City's Charter should be amended to consolidate existing sections regarding finance topics into a single article called "Financial Management", to re-organize existing article content, and to renumber the subsequent articles accordingly. The proposed ballot question would also ask voters if the Financial Management Article should include new, additional sections describing the City's required budget submission, adoption processes, and content; audit resources; and "capital program".

DISCUSSION:

The Resolution would propose to the City's voters that the Charter place the new financial management content in a single article, alongside existing language from Article IX pertaining to the financial topics regarding investments, procurement, and the City's Independent Audit Committee.

The limited version would establish a new title for Article IX, "Financial Management," and the article would contain the existing sections on investments, procurement, and the Independent Audit Committee. It would also place in the article a description of the budget process, required budget content, and budget adoption process; a section on the City's "Capital Program"; and additional requirements for the City's audit.

With respect to budget process, what is described in the proposed language is basically consistent on the whole with the City's current practices. Establishing details of the process in City Charter limits operational flexibility to respond to current context and emergent circumstances, such as new State-imposed preferences, requirements, or limitations, etc.

It is not clear what is contemplated by the Commission's proposal, which is recommended in the Resolution, regarding the City's "Capital Program." The term is not defined and could be intended to relate to the City's infrastructure capital improvement plan or "ICIP", but it is unclear. The State has specific requirements for the City's ICIP. See <https://www.nmdfa.state.nm.us/local-government/icip/>

The Resolution's proposed additional requirements for the City's audit would be to require the City to "prioritize budgetary resources to staff its financial services so as to facilitate timely completion of audits" and to require the Governing Body to adopt ordinances to update financial processes and accounting systems. It is not clear over what other priorities the Charter would be interpreted to require prioritization



City of Santa Fe, New Mexico

Memorandum



for staff and what level of staffing would be considered sufficient. Timely audits are required by state law. It is also not clear how financial “processes” and “systems” would be updated by ordinance. Ordinances are laws. If system refers to technology platforms and processes refers to business processes, then systems and processes are not generally set by law, in order to allow for the flexibility needed to continually update systems and laws in line with industry standards, state and federal regulations, etc.

The Resolution does not address the separations of powers as the Charter Commission envisioned them (substituting the City Manager for the Mayor in relation to budget preparation), and instead leaves the budget responsibilities status quo; the Resolution also does not propose to establish a particular publication process in the Charter or to establish a default budget in the absence of Governing Body action. The Resolution states that the reason for not taking the Commission’s recommendations on these fronts is that the Governing Body does not wish to address them currently.

Finally, the Resolution states in proposed Section 9.02, “Budget Message” that the “governing body shall provide in ordinance the budget summaries that will facilitate its work.” It is unclear what the meaning of this sentence is, making it difficult to envision how the Governing Body would put this idea into practice.

BACKGROUND:

The process for placing a question on the ballot considers the following items:

- The City’s Charter states “10.02. - Charter amendment or repeal. This Charter may be amended or repealed as provided by law.”
- State law, NMSA 1978, Section 3-15-16, states that a home rule municipality may amend its Charter “by a proposal submitted by the governing body of the municipality to the qualified electors.”
- Therefore, a Resolution adopted by the Governing Body describing a proposed ballot question is the mechanism the City uses to document that it wishes to submit a proposal to the electors.

ATTACHMENTS:

Resolution
FIR

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

2 **RESOLUTION NO. 2023-__**

3 **INTRODUCED BY:**

4
5 Councilor Michael Garcia

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10 **A RESOLUTION**

11 **SUBMITTING A BALLOT QUESTION TO THE CITY’S VOTERS DURING THE**
12 **NOVEMBER 7, 2023, REGULAR LOCAL ELECTION REGARDING AMENDING THE**
13 **CITY’S CHARTER TO REGULATE ADOPTION OF THE CITY’S BUDGET AND**
14 **“CAPITAL PROGRAM”, REQUIRE ADOPTION OF ORDINANCES UPDATING**
15 **FINANCIAL PROCESSES AND ACCOUNTING SYSTEMS, REQUIRE SUFFICIENT**
16 **STAFF TO FACILITATE TIMELY COMPLETION OF INDEPENDENT AUDITS, AND**
17 **CONSOLIDATE THOSE NEW SECTIONS WITH EXISTING SECTIONS OF THE**
18 **CHARTER REGARDING FINANCE TOPICS, INCLUDING INVESTMENTS,**
19 **PROCUREMENT, AND INDEPENDENT AUDIT COMMITTEE, IN A NEW ARTICLE**
20 **CALLED “FINANCIAL MANAGEMENT”.**

21
22 **WHEREAS**, Section 10.01 of the City of Santa Fe’s Charter (“Charter”) requires the
23 appointment of a Charter Review Commission (“Commission”) at least every ten years; and

24 **WHEREAS**, the Governing Body adopted Resolution 2022-40 on July 27, 2022,
25 identifying nine topics the Commission should consider; and

1 **WHEREAS**, one of the nine topics the Governing Body asked the Commission to consider
2 was “ideas suggested by the commissioners and members of the community”; and

3 **WHEREAS**, the Governing Body appointed members to the Commission in October
4 2022; and

5 **WHEREAS**, the Commission met from November of 2022 through May of 2023, to
6 deliberate about and consider the details of more than fifteen proposals to amend the Charter; and

7 **WHEREAS**, the Commission received public comment in person, by videoconferencing,
8 in writing, and through the Commission’s webpage; and

9 **WHEREAS**, the Commission produced a final report detailing its recommendations and
10 presented the report to the Governing Body on May 10, 2023 (“Final Report”); and

11 **WHEREAS**, according to the Final Report, “the Commission recommends six substantive
12 amendments be placed on the ballot for the November 2023 election”; and

13 **WHEREAS**, the Final Report recommends that one of the six amendments be a new
14 section of the City of Santa Fe Charter to read as follows:

15 **FINANCIAL MANAGEMENT – Section**

16 **Section Submission of Budget and Budget Message.**

17 The city manager shall submit to the city council, a budget for the
18 ensuing fiscal year and an accompanying message.

19 **Section Budget Message.**

20 Consistent with the form required in New Mexico law, the city
21 manager’s message shall explain the budget both in fiscal terms and in terms of
22 the work programs, linking those programs to organizational goals and
23 community priorities. It shall outline the proposed financial policies of the city
24 for the ensuing fiscal year and the impact of those policies on future years. It
25 shall describe the important features of the budget, indicate any major changes

1 from the current year in financial policies, expenditures, and revenues together
2 with the reasons for such changes, summarize the city's debt position, including
3 factors affecting the ability to raise resources through debt issues, and include
4 such other material as the city manager deems desirable. The council shall
5 provide in ordinance the budget summaries that will facilitate its work.

6 **Section ____ . Budget.**

7 The budget shall provide a financial plan of all city funds and activities
8 for the ensuing fiscal year and, except as required by law or this charter, shall be
9 in such form as the city manager deems desirable or the city council may require
10 for effective management and an understanding of the relationship between the
11 budget and the city's strategic goals. The budget shall begin with a clear general
12 summary of its contents; shall show in detail all estimated income, indicating the
13 anticipated tax revenues, and all proposed expenditures, including debt service,
14 for the ensuing fiscal year; and shall be so arranged as to show comparative
15 figures for actual and estimated income and expenditures of the current fiscal
16 year and actual income and expenditures of the preceding fiscal year. It shall
17 indicate in separate sections:

18 (1) The proposed goals and expenditures for current operations during
19 the ensuing fiscal year, detailed for each fund by department or by other
20 organization unit, and program, purpose or activity, method of financing
21 such expenditures, and methods to measure outcomes and performance
22 related to the goals;

23 (2) Proposed longer-term goals and capital expenditures during the
24 ensuing fiscal year, detailed for each fund by department or by other
25 organization unit when practical, the proposed method of financing each

1 such capital expenditure, and methods to measure outcomes and
2 performance related to the goals; and
3 (3) The proposed goals, anticipated income and expense, profit, and loss
4 for the ensuing year for each utility or other enterprise fund or internal
5 service fund operated by the city, and methods to measure outcomes and
6 performance related to the goals. For any fund, the total of proposed
7 expenditures shall not exceed the total of appropriated funds.

8 **Section . City Council Action on Budget.**

9 **(a) Notice and Hearing.** The city manager shall publish the general
10 summary of the budget and a notice stating:

11 (1) The times and places where copies of the message and
12 budget are available for inspection by the public, and

13 (2) The time and place, not less than two weeks after such
14 publication, for a public hearing(s) on the budget.

15 **(b) Amendment Before Adoption.** After the public hearing, the city
16 council may adopt the budget with or without amendment. In amending
17 the budget, it may add or increase programs or amounts and may delete
18 or decrease any programs or amounts, except expenditures required by
19 law or for debt service or for an estimated cash deficit, provided that no
20 amendment to the budget shall increase the authorized expenditures to an
21 amount greater than total estimated income.

22 **(c) Adoption.** The city council shall adopt the budget on or before the
23 city's budget is due to the state. If it fails to adopt the budget by this date,
24 the budget proposed by the city manager shall go into effect.

25 **(d) "Publish" defined.** As used in this article, the term "publish" means

1 to print in the form of publication recognized in New Mexico law for
2 government entities, plus any electronic media that the council deems
3 accessible to the public.

4 **Section ____ . Administration and Fiduciary Oversight of the Budget.**

5 The governing body shall provide by ordinance the procedures for
6 administration and fiduciary oversight of the budget.

7 **Section ____ . City Council Action on Capital Program.**

8 **(a) Notice and Hearing.** The city manager shall publish the general
9 summary of the capital program consistent with the requirements in New Mexico
10 law for public notice.

11 (1) The times and places where copies of the general summary of the
12 capital program are available for inspection by the public, and

13 (2) The time and place, not less than two weeks after such publication,
14 for a public hearing(s) on the general summary of the capital program.

15 **(b) Adoption.** The city council by resolution shall adopt the capital
16 program with or without amendment after the public hearing and before the
17 capital program is due to the state.

18 **Section ____ Independent Audit.**

19 The city council shall provide for an independent annual audit of all city
20 accounts and may provide for more frequent audits as it deems necessary. The
21 council shall by ordinance update its financial processes and accounting systems
22 and prioritize budgetary resources to staff its financial services so as to facilitate
23 timely completion of audits.

24 **Section 9.01 of Article IX is relocated to Section X.XX , and will read**
25 **as follows:**

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Section X.XX Investments.

The city shall follow the laws and policies of the State of New Mexico regarding investment of public funds.

Section 9.02 of Article IX is relocated to Section X.XX, and is amended to read as follows:

Section X.XX Procurement.

The governing body shall, by ordinance, adopt a fair and equitable procurement code for the city [~~within one year of the adoption of this Charter~~].

Section 9.04 of Article IX is relocated to Section X.XX, and will read as follows:

Section X.XX Independent audit committee.

The governing body shall, by ordinance, adopt an independent audit committee for the city.

WHEREAS, the Governing Body would like to propose a ballot question addressing most of the Charter Commission’s recommendation that appear above; and

WHEREAS, the Commission’s recommendation does not include a suggested location in the Charter to place the new sections; and

WHEREAS, the new sections would appropriately be placed in an Article IX to be called “Financial Management”, including existing Charter sections on financial topics, and renumbering the following two articles as X and XI; and

WHEREAS, the Final Report’s proposed required components of the City’s budget “is pretty much consistent with what we’re currently doing,” according to the City’s Budget Officer; and

WHEREAS, the Governing Body does not wish to submit a ballot question regarding changing the duty to propose a budget from the Mayor to the City Manager at this time; and

1 **WHEREAS**, the Governing Body does not wish to submit a ballot question that changes
2 the current separation of powers such that the City Council would adopt the City’s budget, rather
3 than the Governing Body; and

4 **WHEREAS**, the Governing Body also does not wish to submit a ballot question regarding
5 required publication at this time; and

6 **WHEREAS**, the Governing Body also does not wish to submit a ballot question regarding
7 delegation of determining a final budget to the City Manager in the absence of Governing Body
8 action at this time; and

9 **WHEREAS**, the Charter, Article X, Section 10.02, states that “[t]his Charter may be
10 amended or repealed as provided by law”; and

11 **WHEREAS**, state law, NMSA 1978, Section 3-15-16, states that a home rule
12 municipality may amend its Charter “by a proposal submitted by the governing body of the
13 municipality to the qualified electors”; and

14 **WHEREAS**, a resolution is the formal expression of the will of the Governing Body,
15 used by the City to describe a proposed ballot question and submit it to the electors; and

16 **WHEREAS**, NMSA 1978, Section 1-16-3, requires the City to “file a resolution proposing
17 the ballot question” with the county clerk, not less than seventy (70) days before the election at
18 which the ballot question is proposed to be submitted to the voters.

19 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
20 **CITY OF SANTA FE**, that the Governing Body hereby proposes to submit the following question
21 on the ballot of the regular local election on November 7, 2023:

22 **CITY OF SANTA FE’S BUDGET, “CAPITAL PROGRAM”, AND**
23 **INDEPENDENT AUDIT**

24 Should the Santa Fe Municipal Charter be amended to require a budget message
25 from the Mayor that outlines the proposed financial policies of the City for the

1 ensuing fiscal year and the impact of those policies on future years; identifies
2 required features of the budget and major changes from the current year in financial
3 policies, expenditures, and revenues together with the reasons for such changes;
4 summarizes any debt issues, the proposed goals and expenditures for current and
5 subsequent fiscal years, and goals relating to anticipated income and loss for the
6 ensuing year; to require an ordinance for administering and holding fiduciary
7 oversight of the City’s budget; describes a required process for adopting the
8 Capital Program”; and, in relation to its annual external audit, requires the
9 Governing Body to adopt an ordinance updating its financial processes and
10 accounting systems to prioritize budgetary resources and staff to facilitate timely
11 completion of audits?

12 For Against

13 **BE IT FURTHER RESOLVED** that should the electorate vote in favor of the above
14 ballot questions, that the Charter shall be amended as follows:

15 **ARTICLE IX [~~MISCELLANEOUS GOVERNMENTAL ISSUES~~]**

16 **FINANCIAL MANAGEMENT**

17 **9.01 [~~Investments.~~] Submission of Budget and Budget Message.**

18 ~~The city shall follow the laws and policies of the State of New Mexico~~
19 ~~regarding investment of public funds.~~

20 The mayor shall submit to the city councilors, a budget for the ensuing
21 fiscal year and an accompanying message.

22 **9.02. [~~Procurement.] Budget Message.~~**

23 ~~The governing body shall, by ordinance, adopt a fair and equitable~~
24 ~~procurement code for the city within one year of the adoption of this Charter.~~

25 Consistent with the form required in New Mexico law, the mayor’s

1 message shall explain the budget both in fiscal terms and in terms of the work
2 programs, linking those programs to organizational goals and community
3 priorities. It shall outline the proposed financial policies of the city for the
4 ensuing fiscal year and the impact of those policies on future years. It shall
5 describe the important features of the budget; indicate any major changes from
6 the current year in financial policies, expenditures, and revenues together with
7 the reasons for such changes; summarize the city's debt position, including
8 factors affecting the ability to raise resources through debt issues; and include
9 such other material as the mayor deems desirable. The governing body shall
10 provide in ordinance the budget summaries that will facilitate its work.

11 **9.03. – [Personnel system.] Budget.**

12 [The hiring, supervision, promotion, and discharge of all city employees
13 shall be governed by a personnel system based on principles of efficiency,
14 ability, and non-discrimination. The governing body shall by ordinance adopt a
15 merit personnel system consistent with these principles, and any duly adopted
16 collective bargaining agreements.] The budget shall provide a financial plan of
17 all city funds and activities for the ensuing fiscal year and, except as required by
18 law or this charter, shall be in such form as the mayor deems desirable or the
19 governing body may require for effective management and an understanding of
20 the relationship between the budget and the city's strategic goals. The budget
21 shall begin with a clear general summary of its contents; shall show in detail all
22 estimated income, indicating the anticipated tax revenues, and all proposed
23 expenditures, including debt service, for the ensuing fiscal year; and shall be so
24 arranged as to show comparative figures for actual and estimated income and
25 expenditures of the current fiscal year and actual income and expenditures of the

1 preceding fiscal year. It shall indicate in separate sections:

2 (1) The proposed goals and expenditures for current operations during
3 the ensuing fiscal year, detailed for each fund by department or by other
4 organization unit, and program, purpose or activity, method of financing
5 such expenditures, and methods to measure outcomes and performance
6 related to the goals;

7 (2) Proposed longer-term goals and capital expenditures during the
8 ensuing fiscal year, detailed for each fund by department or by other
9 organization unit when practical, the proposed method of financing each
10 such capital expenditure, and methods to measure outcomes and
11 performance related to the goals; and

12 (3) The proposed goals, anticipated income and expense, profit, and loss
13 for the ensuing year for each utility or other enterprise fund or internal
14 service fund operated by the city, and methods to measure outcomes and
15 performance related to the goals. For any fund, the total of proposed
16 expenditures shall not exceed the total of appropriated funds.

17 **9.04. [- ~~Independent audit committee.~~ Governing Body Action on Budget**

18 ~~The governing body shall, by ordinance, adopt an independent audit committee~~
19 ~~for the city.]~~

20 **(a) Notice and Hearing.** The mayor shall publish the general summary of the
21 budget and a notice stating:

22 (1) The times and places where copies of the message and budget are
23 available for inspection by the public, and

24 (2) The time and place, not less than two weeks after such publication,
25 for a public hearing(s) on the budget.

1 (b) Amendment Before Adoption. After the public hearing, the governing body
2 may adopt the budget with or without amendment. In amending the budget, it
3 may add or increase programs or amounts and may delete or decrease any
4 programs or amounts, except expenditures required by law or for debt service or
5 for an estimated cash deficit, provided that no amendment to the budget shall
6 increase the authorized expenditures to an amount greater than total estimated
7 income.

8 (c) Adoption. The governing body shall adopt the budget on or before the city's
9 budget is due to the state. If it fails to adopt the budget by this date, the budget
10 proposed by the mayor shall go into effect.

11 **9.05 -Administration and Fiduciary Oversight of the Budget.**

12 The governing body shall provide by ordinance the procedures for
13 administration and fiduciary oversight of the budget.

14 **9.06- Governing Body Action on Capital Program.**

15 (a) Notice and Hearing. The mayor shall publish the general summary
16 of the capital program.

17 (1) The times and places where copies of the general summary of the capital
18 program are available for inspection by the public, and

19 (2) The time and place, not less than two weeks after such publication, for a
20 public hearing(s) on the general summary of the capital program.

21 (b) Adoption. The governing body by resolution shall adopt the capital
22 program with or without amendment after the public hearing and before the
23 capital program is due to the state.

24 **9.07- Independent Audit.**

25 The governing body shall provide for an independent annual audit of all

1 city accounts and may provide for more frequent audits as it deems necessary.
2 The governing body shall by ordinance update its financial processes and
3 accounting systems and prioritize budgetary resources to staff its financial
4 services so as to facilitate timely completion of audits.

5 **[9.01] 9.08- Investments.**

6 The city shall follow the laws and policies of the State of New Mexico
7 regarding investment of public funds.

8 **[9.02]9.09- Procurement.**

9 The governing body shall, by ordinance, adopt a fair and equitable
10 procurement code for the city [~~within one year of the adoption of this Charter~~].

11 **[9.04] 9.10- Independent Audit Committee**

12 The governing body shall, by ordinance, adopt an independent audit
13 committee for the city.

14 **ARTICLE X. – [~~CHARTER REVIEW AND AMENDMENT~~]**

15 **MISCELLANEOUS GOVERNMENTAL ISSUES**

16 **[9.04] 10.01 [~~Charter review.~~] Personnel system.**

17 [~~A charter review commission shall be appointed as needed, but not less~~
18 ~~frequently than every ten years. The governing body shall by resolution~~
19 ~~determine the manner of appointment of the commission, provided that there~~
20 ~~shall be an odd number of commissioners.]~~

21 The hiring, supervision, promotion, and discharge of all city employees
22 shall be governed by a personnel system based on principles of efficiency,
23 ability, and non-discrimination. The governing body shall by ordinance adopt a
24 merit personnel system consistent with these principles, and any duly adopted
25 collective bargaining agreements.

1 ~~[10.02.— Charter amendment or repeal.~~

2 This Charter may be amended or repealed as provided by law. The city
3 attorney shall review and render and publish a public opinion as to the legality
4 and form of any proposed charter amendment before it is submitted to the
5 voters.]

6 **ARTICLE [X] XI. – [GENERAL PROVISIONS] CHARTER REVIEW**
7 **AND AMENDMENT**

8 ~~[10.01]~~ **11.01. – [Transition.] Charter review.**

9 ~~[A. Elected officials. City officials who are incumbent on the effective~~
10 ~~date of this Charter shall serve out their elected terms unless recalled under the~~
11 ~~provisions of this Charter.~~

12 ~~B. Appointed officials. All incumbent appointed officials and~~
13 ~~commissioners shall serve out their appointed terms unless removed in~~
14 ~~accordance with city ordinances, resolutions or state law.]~~

15 A charter review commission shall be appointed as needed, but not less
16 frequently than every ten years. The governing body shall by resolution
17 determine the manner of appointment of the commission, provided that there
18 shall be an odd number of commissioners.

19 ~~[10.02]~~ **11.02. [–Mandated ordinances.] Charter amendment or repeal.**

20 ~~[The governing body shall enact all ordinances required by this Charter~~
21 ~~within one year of the effective date of the Charter. Where an ordinance exists on~~
22 ~~a required subject, the governing body shall review, revise as necessary, and re-~~
23 ~~enact such ordinance within one year from the effective date of the Charter.]~~

24 This Charter may be amended or repealed as provided by law. The city
25 attorney shall review and render and publish a public opinion as to the legality

1 and form of any proposed charter amendment before it is submitted to the voters.

2 **~~[11.03.]~~ Severability.**

3 The provisions of this Charter are severable, and if any provision or part
4 of a provision is held to be unlawful or unconstitutional, the remainder of this
5 Charter shall not be affected.

6 **~~11.04.]~~ Effective date of charter.**

7 This Charter shall become effective on March 15, 1998.]

8 **ARTICLE~~[XI]~~ XII. -GENERAL PROVISIONS.**

9 **~~[11.01]~~12.01- Transition.**

10 A. Elected officials. City officials who are incumbent on the effective date of this
11 Charter shall serve out their elected terms unless recalled under the provisions of
12 this Charter.

13 B. Appointed officials. All incumbent appointed officials and commissioners
14 shall serve out their appointed terms unless removed in accordance with city
15 ordinances, resolutions or state law.

16 **~~[11.02]~~12.02- Mandated ordinances.**

17 The governing body shall enact all ordinances required by this Charter
18 within one year of the effective date of the Charter. Where an ordinance exists on
19 a required subject, the governing body shall review, revise as necessary, and re-
20 enact such ordinance within one year from the effective date of the Charter.

21 **~~[11.03]~~ 12.03- Severability.**

22 The provisions of this Charter are severable, and if any provision or part
23 of a provision is held to be unlawful or unconstitutional, the remainder of this
24 Charter shall not be affected.

25 **~~[11.04]~~ 12.04 - Effective date of charter.**

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This Charter shall become effective on March 15, 1998.

BE IT FURTHER RESOLVED BE IT FURTHER RESOLVED that the City Clerk shall submit this ballot question to the Santa Fe County Clerk no later than August 29, 2023.

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2023.

ALAN WEBBER, MAYOR

ATTEST:

KRISTINE MIHELICIC, CITY CLERK

APPROVED AS TO FORM:

Erin McSherry

[Erin McSherry \(Aug 11, 2023 17:40 MDT\)](#)

ERIN K. McSHERRY, CITY ATTORNEY

FISCAL IMPACT REPORT**General Information:**(Check) **Bill:** _____ **Resolution:** X**Short Title(s):** Charter Section on Finance**Sponsor(s):** Councilor Michael Garcia**Reviewing Department(s):** City Attorney's Office**Staff Completing FIR:** Marci Eannarino **Date:** August 11, 2023 **Phone:** (505) 955-6518**Reviewed by City Attorney:** *Erin McSherry* **Date:** Aug 11, 2023
Erin McSherry (Aug 11, 2023 17:40 MDT)**Reviewed by Finance Director:** *Emily K. Oster* **Date:** Aug 12, 2023
Emily K. Oster (Aug 12, 2023 07:24 MDT)**Summary:**

If adopted, the proposed Resolution would submit a question to the City's voters on the November 7, 2023, ballot asking them to determine whether or not to amend the City Charter to require particular sections to be included in the City's annual budget, require a publication timeline for the budget, require publication of the City's "Capital Program", require sufficient staff for submission of the City's audit, and require the Governing Body to update ordinances regarding financial systems and processes.

Departments Affected:

If the Resolution is adopted, the City's Clerk's office would send the ballot question to the Santa Fe County Clerk no later than August 29, 2023.

Consequences of Not Enacting Legislation:

If this legislation is not adopted, there would not be a question placed on the ballot asking the voters to decide whether or not to amend the City Charter to include specific provisions for the creation and adoption of an annual budget.

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

The State regulates the City's budget submission, infrastructure capital investment program, and audit. There are State statutes and regulations on these topics.

Performance and Administrative Implications:

If the Resolution is adopted, the Clerk's office would send the ballot question to the Santa Fe County Clerk no later than August 29, 2023.

Fiscal Implications:

***The Resolution's fiscal implications are largely dependent upon approval by voters in November 2023. Should the Resolution be adopted by the Governing Body, the City Clerk would then present the approved ballot question to the Santa Fe County Clerk by August 29, 2023. In the event that the ballot question requires more than one page, the City would be required to pay the additional costs for any additional ballot pages.

Fiscal Impact

 X*** Check here if no fiscal impact

Expenditures

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

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

Expenditure Narrative:

*****See Fiscal Implications 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: *Marci Annarino*

Email: maeannarino@santafenm.gov



City of Santa Fe, New Mexico

Memorandum



Date: 6/28/2023

To: Governing Body, Finance Committee, Quality of Life, Public Works

From: Marci Eannarino, Manager of Legislation and Policy Innovation ME

VIA: Erin McSherry, City Attorney EM

RE: Amend the City's Charter to establish a Human Rights Commission and an Office of Equity and Inclusion, both with the jurisdiction, authority, and staff sufficient to effectively administer the policies in Charter Article II

EXECUTIVE SUMMARY:

The proposed Resolution would authorize the placement of two ballot questions on the November 7, 2023, ballot determining whether or not to amend Article IX of the City's Charter.

The first question contemplates language establishing in ordinance a Human Rights Commission. Further, the proposal specifies that the Human Rights Commission would be defined by the following characteristics:

- A membership of five (5) commissioners, "each serving two-year terms, except two commissioners drawn by lot who shall initially serve a one-year term, in order that every two years either two or three commissioners will be appointed to the commission."
- One commissioner from each council district, "appointed by consensus of the two councilors from that district."
- One commissioner appointed by the Mayor.
- Term limits, with each commissioner serving two, two-year terms.
- A leadership structure wherein commissioners, once appointed, elect a chair and vice chair "from their number."

The second question contemplates the establishment in ordinance of an Office of Equity and Inclusion that would, "in coordination with" the Human Rights Commission described above, have "jurisdiction, authority, and staff sufficient to effectively administer" the policies as outlined in Article II, Section 2.02, "Human and Civil Rights".

Should the electorate vote in favor of these measures, the Governing Body would be required to create both bodies by ordinance.

DISCUSSION:

The Charter's current language in Article II, Section 2.02 establishes that to affect the "ends" described in its language, "the governing body may enact ordinances and establish appropriate commissions with jurisdiction, authority and staff sufficient to effectively administer this policy." One of the nine topics the Governing Body asked the Charter Commission to consider was "[w]hether the Human and Civil Rights policy statement should be more specific with regards to breadth of required protections and/or the manner in which rights should be protected." The proposed charter amendment does not relate to the *breadth* of



City of Santa Fe, New Mexico

Memorandum



required protections. The proposed Office of Equity and Inclusion and Human Rights Commission could be created by ordinance, whether or not the Charter is amended.

The Charter Commission's original proposal located the amendment in Article II, which is devoted to "Policy Statements." Because the establishment of a Human Rights Commission and an Office of Equity and Inclusion are not policy statements, staff recommended, and the sponsor agreed, that Article IX, "Miscellaneous Governmental Issues" is a more appropriate location for the proposed amendment.

As stated above, the Charter Commission, recommended that there be established in the Charter "an Office of Equity and Inclusion with jurisdiction, authority, and staff sufficient to effectively administer these polices *in coordination* with the Human Rights Commission" (emphasis added).

The Commission's intent is unclear with respect to the relationship of the Human Rights Commission to the Office of Equity and Inclusion, and how the "coordination" between the bodies would function. In addition to the nature of the described coordination being unclear, the extent to which the Commission would be involved in the operations of the office's day-to-day business is not yet defined.

The described coordination raises the question whether the voters should be presented with two separate questions (one devoted to establishing each body, meaning the voters could choose one but not the other), or a single question (meaning a vote in favor of one is essentially a vote in favor of both entities, creating a situation where the voters can't have one without the other). This resolution represents the former in that the Resolution proposes two separate questions for each. However, this means it is possible that the voters affirm their desire for an Office of Equity and Inclusion, but not for the Human Rights Commission. The Governing Body would have to sort out in ordinance what happens to the "coordination" described by the Commission if voters decide not to establish the body (the Human Rights Commission) with which the Office of Equity and Inclusion is supposed to coordinate.

Additionally, with respect to establishing an Office of Equity and Inclusion in the City's Charter, there is a question of operational flexibility. On the one hand, locating the office in the City's Charter gives the body longevity in that amendments to the Charter typically occur on ten-year cycle and with a ballot measure placed before the electorate. But on the other hand, this longevity could exist at the cost of operational flexibility.

Lastly, the proposed Resolution notes the passage of Resolution No. 2023-18, which included the dedication of funds for Fiscal Year 2024 to Culture, History, Art, Reconciliation, and Truth ("CHART") recommendations, one of which was to establish an Office of Diversity Equity and Inclusion." It is unclear whether a Charter amendment would complicate or duplicate any current existing efforts already in process with respect to the follow-up on CHART recommendations.

BACKGROUND:

The process for placing a question on the ballot considers the following items:

- The City's Charter states "10.02. - Charter amendment or repeal. This Charter may be amended or repealed as provided by law. The city attorney shall review and render and publish a public opinion as to the legality and form of any proposed charter amendment before it is submitted to the voters."



City of Santa Fe, New Mexico

Memorandum



- State law, NMSA 1978, Section 3-15-16 states that a home rule municipality may amend its Charter “by a proposal submitted by the governing body of the municipality to the qualified electors.”
- Therefore, a Resolution adopted by the Governing Body describing a proposed ballot question is the mechanism the City uses to document that it wishes to submit a proposal to the electors. Please see an example Resolution, attached.

ATTACHMENTS:

Resolution

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2023-__

INTRODUCED BY:

Councilor Michael Garcia

A RESOLUTION

PROPOSING TWO BALLOT QUESTIONS TO BE SUBMITTED TO THE CITY’S VOTERS DURING THE NOVEMBER 7, 2023, REGULAR LOCAL ELECTION TO AMEND THE CITY’S CHARTER TO REQUIRE THE GOVERNING BODY TO ESTABLISH AN OFFICE OF EQUITY AND INCLUSION AND A HUMAN RIGHTS COMMISSION IN ORDINANCE.

WHEREAS, Section 10.01 of the City of Santa Fe’s Charter (“Charter”) requires the appointment of a Charter Review Commission (“Commission”) at least every ten years; and

WHEREAS, the Governing Body adopted Resolution 2022-40 on July 27, 2022, identifying nine topics the Commission should consider; and

WHEREAS, one of the nine topics the Governing Body asked the Commission to consider was “[w]hether the Human and Civil Rights policy statement should be more specific with regards to breadth of required protections and/or the manner in which rights should be protected”; and

WHEREAS, the Governing Body appointed members to the Commission in October, 2022; and

1 nor shall any action be condoned which discriminates on the basis of ethnicity,
2 race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual
3 orientation, physical or mental disability, medical condition or citizenship status [~~;~~
4 ~~nor shall any~~]. No ordinance enacted or policy adopted protecting or enhancing
5 these rights shall be subject to the right of referendum or initiative. The governing
6 body shall preserve, protect and promote human rights and human dignity, and
7 shall, through all of its activities, including but not limited to employment,
8 awarding of contracts, housing accommodation, and the provision of city services,
9 prohibit [~~and discourage~~] such discrimination. To effect these ends, the governing
10 body may enact ordinances and ~~establish appropriate commissions and shall~~
11 establish an Office of Equity and Inclusion with jurisdiction, authority, and staff
12 sufficient to effectively administer [~~this policy.~~] these policies in coordination with
13 the Human Rights Commission. The Human Rights Commission shall have five
14 commissioners, each serving a two-year term, except two commissioners drawn
15 by lot who shall initially serve a one-year term, in order that every two years either
16 two or three commissioners will be appointed to the commission. One
17 commissioner from each council district shall be appointed by the consensus of the
18 two councilors from that district, and one commissioner shall be appointed by the
19 Mayor. Each commissioner shall be limited to two, two-year terms. The
20 commissioners, once appointed, shall elect a chair and a vice chair from their
21 number.

22 **WHEREAS**, current language in the City’s Charter, Article II, Section 2.02 says that in
23 order to affect the policy statement of the section “...the governing body may enact ordinances and
24 establish appropriate commissions with jurisdiction, authority, and staff sufficient to effectively
25 administer this policy”; and

1 **WHEREAS**, the Governing Body believes that the Charter should discourage
2 discrimination; and

3 **WHEREAS**, the Governing Body agrees that the Charter should require establishing a
4 Human Rights Commission and Office of Equity and Inclusion; and

5 **WHEREAS**, the creation of an Office of Equity and Inclusion and establishing the
6 membership and terms for the described Human Rights Commission are not policy statements and
7 there is another article, Article IX, Miscellaneous Governmental Issues, that addresses topics not
8 covered in other articles, including the Independent Audit Committee, Investments, Procurement,
9 and a Personnel System; and

10 **WHEREAS**, the City, in its approved budget for Fiscal Year 2023/2024 (being Resolution
11 No. 2023-18), dedicated funds to Culture History Art Reconciliation and Truth (CHART)
12 recommendations, one of which was to establish an office of “Diversity, Equity, and Inclusion”;
13 and

14 **WHEREAS**, the Charter, Article X, Section 10.02, states that “[t]his Charter may be
15 amended or repealed as provided by law”; and

16 **WHEREAS**, state law, NMSA 1978, Section 3-15-16, states that a home rule municipality
17 may amend its Charter “by a proposal submitted by the governing body of the municipality to the
18 qualified electors”; and

19 **WHEREAS**, a resolution is the formal expression of the will of the Governing Body, and
20 is used by the City to describe a proposed ballot question and submit it to the electors; and

21 **WHEREAS**, NMSA 1978, Section 1-16-3, requires the City to “file a resolution proposing
22 the ballot question” with the county clerk, not less than seventy (70) days before the election at
23 which the ballot question is proposed to be submitted to the voters.

24 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
25 **CITY OF SANTA FE** that the Governing Body hereby proposes to submit the following questions

1 on the ballot of the regular local election on November 7, 2023:

2 **ESTABLISHING A CITY OF SANTA FE HUMAN RIGHTS**

3 **COMMISSION**

4 Should Article IX of the City’s Charter require the City’s Governing Body to create
5 a Human Rights Commission in ordinance and to specify that the Commission
6 have five commissioners, one commissioner from each council district appointed
7 by the consensus of the two councilors from that district, and one commissioner
8 appointed by the Mayor; that each commissioner serving a two-year term, with
9 term limits of two terms; and that the Commission elects its own chair and vice
10 chair?

11 For Against

12 **ESTABLISHING A CITY OFFICE OF EQUITY AND INCLUSION**

13 Should Article IX of the City’s Charter require the City’s Governing Body to create
14 an Office of Equity and Inclusion in ordinance that, in coordination with a “Human
15 Rights Commission”, would have the jurisdiction, authority, and staff sufficient to
16 effectively administer the policies of the City Charter’s Policy Statements on
17 “Human and Civil Rights”?

18 For Against

19 **BE IT FURTHER RESOLVED** that, if the voters vote in favor of the first ballot question
20 described above, then a Section of Article IX of the City of Santa Fe Charter, entitled “Human
21 Rights Commission” would be added to the Charter as follows:

22 **Article IX. – Miscellaneous Governmental Issues**

23 **Section X.XX: Human Rights Commission**

24 The governing body shall create and establish in ordinance a Human
25 Rights Commission. The Human Rights Commission shall have five

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commissioners, each serving a two-year term, except two commissioners drawn by lot who shall initially serve a one-year term, in order that every two years either two or three commissioners will be appointed to the commission. One commissioner from each council district shall be appointed by the consensus of the two councilors from that district, and one commissioner shall be appointed by the Mayor. Each commissioner shall be limited to two terms. The commissioners shall elect a chair and a vice chair from their number.

BE IT FURTHER RESOLVED that should the electorate vote in favor of the second ballot question, the following Section shall be added to Article IX of the City of Santa Fe Charter as follows:

Article IX. – Miscellaneous Governmental Issues

Section X.XX: Office of Equity and Inclusion

The Governing Body shall establish in ordinance an Office of Equity and Inclusion dedicated to the principles of equity and inclusion, which, in coordination with the Human Rights Commission, has the jurisdiction, authority, and staff sufficient to administer the policies of Article II, Section 2.02, “Human and Civil Rights”.

BE IT FURTHER RESOLVED that the City Clerk shall submit these ballot questions to the Santa Fe County Clerk no later than August 29, 2023.

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2023.

ALAN WEBBER, MAYOR

1 ATTEST:

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4 KRISTINE MIHELICIC, CITY CLERK

5 APPROVED AS TO FORM:

6

Erin McSherry
7 [Erin McSherry \(Aug 11, 2023 16:33 MDT\)](#)

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ERIN K. McSHERRY, CITY ATTORNEY

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Legislation/2023/Resolutions/Amend Section 2.02 of the City Charter

FISCAL IMPACT REPORT**General Information:**(Check) **Bill:** _____ **Resolution:** X**Short Title(s):** Amending Section 2.02 of the City Charter**Sponsor(s):** Councilor Michael Garcia**Reviewing Department(s):** City Attorney's Office**Staff Completing FIR:** Marci Eannarino **Date:** 6/28/2023 **Phone:** (505) 955-6518**Reviewed by City Attorney:** *Erin McSherry* **Date:** Aug 11, 2023
Erin McSherry (Aug 11, 2023 16:33 MDT)**Reviewed by Finance Director:** *Emily K. Oster* **Date:** Aug 12, 2023
Emily K. Oster (Aug 12, 2023 07:28 MDT)**Summary:**

The proposed Resolution would authorize the placement of two questions on the November 7, 2023, ballot determining whether or not to amend Articles II and IX of the City Charter. The first question would be whether to include language establishing in ordinance and City Charter a Human Rights Commission. The second question would be whether to include in ordinance and in the Charter an Office of Equity and Inclusion that would, in coordination with the Human Rights Commission described above, have "jurisdiction, authority, and staff sufficient to effectively administer" the policies as outlined in Article II, Section 2.02, "Human and Civil Rights". Should the electorate vote in favor of this measure, the Governing Body would be required to create the commission and the office by ordinance.

Departments Affected:

If the resolution is adopted, the City Clerk's office would submit the ballot questions to the Santa Fe County Clerk no later than August 29, 2023.

Consequences of Not Enacting Legislation:

If this legislation is not adopted, there would not be two questions placed on the ballot asking the voters to contemplate amendments to Articles II and IX of the City Charter to include revised wording in the Human Rights Policy as well as provisions establishing in ordinance a Human Rights Commission and an Office of Equity and Inclusion.

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

Resolution No. 2023-18 dedicated funds to Culture History Art Reconciliation and Truth ("CHART") recommendations, one of which was to establish an office of "Diversity, Equity, and Inclusion".

Performance and Administrative Implications:

This Resolution would require the City Clerk to present the ballot questions to the Santa Fe County Clerk no later than August 29, 2023. If the electorate votes in favor of the establishment of the Office of Equity and Inclusion, administrative steps will need to be taken to identify the budget and operational roles for such an office. Further, if the electorate votes in favor of the Human Rights Commission, the Governing Body would take steps to initiate and pass an ordinance establishing both the Human Rights Commission

and the Office of Equity and Inclusion. Lastly, the relevant appointments, as described by the Charter's proposal would need to be made create the Human Rights Commission.

Fiscal Implications:

***Should the Resolution be adopted by the Governing Body, the City Clerk would then present the approved ballot questions to the Santa Fe County Clerk by August 29, 2023. In the event that the ballot question requires more than one page, the City would be required to pay the additional costs for any additional ballot pages. Beyond this, the Resolution's fiscal implications are largely dependent upon approval by the electorate in November 2023. Should the electorate vote in favor of the Office of Equity and Inclusion, the City would then need to take steps to establish the office, potentially including hiring at least one full-time employee of appropriate qualifications to assist with administering the office's function.

Fiscal Impact

 X*** Check here if no fiscal impact

Expenditures

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

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

Expenditure Narrative:

****see Fiscal Implications 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: *Marci Cannarino*

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