

CITY CLERK'S OFFICE

DATE 7/28/17 TIME 8:30  
SERVED BY Carolyn Roibal  
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**City of Santa Fe, NM**  
**Regular Committee**  
**Monday, July 31, 2017**  
**05:00 PM – Finance Committee**  
**Council Chambers**

**AGENDA**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF AGENDA**
- 4. APPROVAL OF CONSENT AGENDA**
- 5. APPROVAL OF MINUTES**

**CONSENT AGENDA**

6. Request for Approval of FY2017-18 Nutrition Service Incentive Program Agreement with the North Central New Mexico Economic Development District Non-Metro Area Agency on Aging in the Amount of \$153,934. (Gino Rinaldi)

Committee Review:

Council (Scheduled) 08/09/2017  
#6 Nutrition Program.pdf

7. Request for Approval of Professional Services Agreement with North Central New Mexico Economic Development District Non-Metro Area Agency on Aging in the Amount of \$766,471. (Gino Rinaldi)

Committee Review:

Council (Scheduled) 08/09/2017  
#7 North Central.pdf

8. Request for Approval of Professional Services Agreement Amendment NO. 2 in the Amount of \$48,440 - Consulting Support and Assistance with Radio System Upgrades and Repairs for the City of Santa Fe; Obsidian Consulting LLC. ( Larry Worstell)

Committee Review:

Council (Scheduled) 08/09/2017  
#8 Obsidian Amendment #2.pdf

9. Request for Approval to Amend FY17-18 Capital Improvement Plan to Reflect Cerrillos Road Phase IIC as a Funded Projected and Approve Budget Amendment in the Amount of \$652,439 to Re-Appropriate and Properly Reflect Approved Contract Amendment and Grant Funding (David Quintana)

Committee Review:

Public Works (Scheduled) 08/07/2017  
Council (Scheduled) 08/09/2017

#9 Cerrillos Rd-CIP BAR.pdf

10. Request for Approval to Award RFP# 17/04/P for the Citation Administration and Revenue Reconciliation System to Conduent State and Local Solutions, Inc. in the Amount of \$654,000 (Noel Correia)

Committee Review:

Council (Scheduled) 08/09/2017

#10 Conduent State & Local Solutions.pdf

11. Request for Approval of Budget Amendment for Re-Appropriation of State Fire Funds in the Amount of \$336,182 from FY2016-17 to FY2017-18 Operating Budget. (Jan Snyder)

Committee Review:

Council (Scheduled) 08/09/2017

#11 BAR State Fire Funds.pdf

12. Request for Approval of Budget Amendments for Re-Appropriation of State Fire Protection Funds from FY2016-17 to FY2017 - 18 Operating Budget: (Jan Snyder)

- i. Business Unit 22208 in the Amount of \$123,155.30 - Ambulance Purchase with Scheduled Deliver of September 2017
- ii. Business Unit 22232 in the Amount of \$366,278.00 - Fire Engine Purchase with Estimated Delivery of Spring 2018
- iii. Business Unit 22208 in the Amount of \$97,732.00 - Vehicle Delivery

Committee Review:

Council (Scheduled) 08/09/2017

#12 BARS State Fire Protection Funds.pdf

13. Request for Approval of Budget Amendment in the Amount of \$62,426.58 for the Re-Appropriation of Funds in the MIHO Fund from FY 16-17 to FY 17-18. (Andres Mercardo)

Committee Review:

Council (Scheduled) 08/09/2017

#13 BAR-MIHO Fund.pdf

14. Request for Approval of Change Order NO. 8 for Miscellaneous Landscaping in the Amount of \$104,000 and of Budget Amendment in the Amount of \$231,263.24 -Acequia Trail Underpass (Leroy Pacheco)

Committee Review:

Council (Scheduled) 08/09/2017

#14 Acequia Trail Underpass.pdf

15. CIP #482A - Canada Rincon Trail - Final Decision - Calle Mejia to Camino Francisca  
Request for Approval of a Cooperative Services Agreement (CES) Contract with Wilson & Company in the Amount of \$89,294.44 Excluding NMGR and a 1% CES Administrative Fee. (Leroy Pacheco)

Committee Review:

Council (Scheduled) 08/09/2017

#15 Cooperative Educational Services.pdf

16. Request for Approval of a Professional Services Agreement Between the City of Santa Fe and the

Santa Fe Railyard Community Corporation (SFRCC) to Fund the Approved Capital Improvement Projects in the North Railyard District in the Amount of \$240,000. (Robert Siqueiros)

Committee Review:

Council (Scheduled) 08/09/2017

#16 Santa Fe Railyard.pdf

17. Request for Approval of a Professional Services Agreement Between the City of Santa Fe and the Santa Fe Railyard Park Conservancy for Management of the Santa Fe Railyard Park Programs in the Amount of \$100,000 (Robert Siqueiros)

Committee Review:

Council (Scheduled) 08/09/2017

#17 Santa Fe Railyard Park Conservancy-.pdf

18. Request for Approval of RFP 17/51/P Professional Services Agreements with Nine (9) Vendors to Provide Services under the Lodgers' Tax for the Arts Ordinance: Category C, FY 17/18 in the Total Amount of \$125,500. (Jackie Camborde)

Committee Review:

Council (Scheduled) 08/09/2017

#18 RFP 17-51-P comb..pdf

19. Request for Approval of RFP 17/52/P and Professional Services Agreement with Seven (7) Vendors to Provide Services under the Lodgers' Tax for the Arts Ordinance: Category B, FY 17/18 in the Amount of \$45,000. (Jackie Camborde)

Committee Review:

Council (Scheduled) 08/09/2017

#19 RFP 17-52P -comb.pdf

20. Request Approval of a Resolution Directing the City Manager to Initiate a Planning and Feasibility Study for the Future of the Santa Fe City Library System. (Mayor Gonzales and Councilors Ives, Rivera and Harris) (Patricia Hodapp)

Committee Review:

Library Board (approved) 07/11/17

Public Works Committee (approved) 07/24/17

City Council (scheduled) 08/09/17

Fiscal Impact: Yes - \$37,550 - The Library Board, Friends of the Library have Raised Matching Funds of \$37,550 to Meet the Assessment Costs. The City's Portion will Come from the General Fund.

#20 Library Planning & Feasibility Study.pdf

21. Request for a Resolution Supporting the New Mexico Litter Control and Beautification Act of 1985 which Provides Public Funds in the Form of Grants for the Purpose of Enhancing Local Litter Control and Beautification Programs. (Councilor Trujillo) (Gilda Montano)

Committee Review:

Public Utilities Committee 08/02/17

City Council 08/09/17

Fiscal Impact: Yes – Expenditures = \$60,500 (\$28,750 for personnel; \$31,750 for other operating costs)  
Revenue = \$60,500 grant

#21 Litter Control.pdf

22. Request for Approval of a Resolution Adopting the FY2019-2023 Infrastructure Capital Improvements Plan (ICIP). (Councilor Ives) (Nick Schiavo)

Committee Review:

Public Works Committee (approved)	07/24/17
City Council (scheduled)	08/09/17

Fiscal Impact: None

#22 ICIP-updated.pdf

23. Request for Approval of an Ordinance Relating to Animal Welfare; Amending Subsection 5-2 SFCC 1987 To Add Definitions; And Amending Subsection 5-10 To Prohibit Traveling Animal Acts. (Councilor Lindell) (Theresa Gheen)

Committee Review:

City Council (request to publish)	08/09/17
City Council (public hearing)	09/13/17

Fiscal Impact: Yes - Assuming One Circus or Other Applicable Event per Year, the City Would Lose an Estimated \$300 per Year in Associated Fees.

#23 Traveling Animal Act Ban.pdf

24. Request for Approval of an Ordinance Relating to the Telecommunications in the Public Rights-Of-Way Ordinance; Amending Subsection 27-2.19 SFCC 1987 to Streamline the Land Use Review Process for Telecommunications Facilities in the Public Rights of Way; Amending Subsection 27-2.20 to Include Facilities; and Repealing Subsection 27-21 Relating to the Telecommunications Advisory Committee. (Councilor Harris) (Kelley Brennan / Marcos Martinez)

Committee Review:

Public Works Committee (approved)	07/24/17
Public Utilities Committee (scheduled)	08/02/17
City Council (request to publish)	08/09/17
City Council (public hearing)	08/30/17

Fiscal Impact: None

#24 Ord-Telecom Right- of-Way.pdf

## DISCUSSION

## MATTERS FROM STAFF

## MATTERS FROM THE COMMITTEE

**EXECUTIVE SESSION**

**ADJOURN**

Finance Committee Meeting – Index – July 31, 2017

Cover Page		Page 0
Call to Order	The Chair, City Councilor Carmichael Dominguez at 5:00 pm, called the regular meeting of the City of Santa Fe Finance Committee to order. A quorum is reflected in Roll Call.	Page 1
Approval of Agenda	No Change from staff  <i>Councilor Ives, moved to approve the agenda as presented, second by Councilor Villarreal, motion carried by unanimous voice vote.</i>	Page 1
Approval of Consent Agenda	<u>Request to Pull:</u> # 8, 9, 10, 14, 16, 19, 20, 24, Councilor Ives to co-sponsor, Item 21 and 23  <i>Councilor Villarreal moved to approve the consent agenda as amended with the following consent items pulled: # 8, 9, 10, 14, 16, 19, 20, 24, Councilor Ives to co-sponsor, Item 21 and 23, second by Councilor Ives, motion carried by unanimous voice vote.</i>	Page 1-2
Approval of Minutes	<i>None</i>	Page 2
Consent Agenda:  #8 - Request for approval of Professional Services Agreement No. 2 in the amount of \$48,440, consulting support and assistance with radio system upgrades and	#8 - <i>Councilor Lindell moved to approve Professional Services Agreement No. 2 in the amount of \$48,440, consulting support and assistance with radio system upgrades and repairs for the City of Santa</i>	Page 2-23

<p>repairs for the City of Santa Fe. Obsidian Consulting LLC</p>	<p><b><i>Fe. Obsidian Consulting LLC, second by Councilor Ives, motion carried by unanimous voice vote.</i></b></p>	
<p>#9 Request for approval to amend FY 17-18 Capital Improvement Plan to reflect Cerrillos Road Phase II-C as a funded project and approve budget amendment in the amount of \$652,439 to re-appropriate and properly reflect approved contract amendment and grant funding.</p>	<p><b><i>#9 Councilor Lindell moved to approve and amend FY 17-18 Capital Improvement Plan to reflect Cerrillos Road Phase II-C as a funded project and approve budget amendment in the amount of \$652,439 to re-appropriate and properly reflect approved contract amendment and grant funding, second by Councilor Ives, motion carried by unanimous voice vote.</i></b></p>	
<p>#10 Request for approval to award RFP#17/04/P for the Citation Administration and Revenue Reconciliation System to Conduit State and Local Solutions, Inc. in the amount of \$654,000.</p>	<p><b><i>#10 - Councilor Lindell moved to approve award RFP#17/04/P for the Citation Administration and Revenue Reconciliation System to Conduit State and Local Solutions, Inc. in the amount of \$654,000, second by Councilor Ives motion carried by unanimous voice vote.</i></b></p>	
<p>#14 Request for approval of Change Order No. 8 for miscellaneous landscaping in the amount of \$104,000 and of budget Amendment in the amount of \$231,263.24 – Acequia Trail Underpass.</p>	<p><b><i>#14 Councilor Harris moved to recommend approval of Change Order No. 8 for miscellaneous landscaping in the amount of \$104,000 and that budget Amendment in the amount of \$231,263.24 – Acequia Trail Underpass,</i></b></p>	

<p>#16 Request for approval of Professional Services Agreement between the City of Santa Fe and the Santa Fe Railyard Community Corporation (SFRCC) to fund the approved Capital Improvement Projects in the north Railyard District in the amount of \$240,000</p>	<p><i>second by Councilor Ives, motion carried by unanimous voice vote.</i></p> <p>Chair: Exhibit A to go to City Council.</p>	
<p>#19 - Request for approval of RFP 17/52/P Professional Services Agreements with seven (7) vendors to provide services under the Lodger's Tax for the Arts Ordinance: Category B, FY 17-18 in the total amount of \$45,000</p>	<p><i>#16 - Councilor Ives moved to approve Professional Services Agreement between the City of Santa Fe and the Santa Fe Railyard Community Corporation (SFRCC) to fund the approved Capital Improvement Projects in the north Railyard District in the amount of \$240,000, second by Councilor Lindell, motion carried by unanimous voice vote.</i></p> <p><i>#19 - Councilor Villarreal moved to approve RFP 17/52/P Professional Services Agreements with seven (7) vendors to provide services under the Lodger's Tax for the Arts Ordinance: Category B, FY 17-18 in the total amount of \$45,000, second by Councilor Ives, motion carried by unanimous voice vote.</i></p>	
<p>#20 - Request for approval of a Resolution directing the City Manager to initiate a Planning and Feasibility study for the Future of the Santa</p>	<p><i>#20 - Councilor Ives moved to approve Resolution directing the City Manager to initiate a Planning and Feasibility study for the Future of the Santa Library</i></p>	



Library System	<i>System, second by Councilor Villarreal, motion carried by unanimous voice vote.</i>	
#24 - Request for approval of an ordinance relating to the Telecommunications in the Public Rights-of-way Ordinance; amending subsection 27-2.19 SFCC1987 to streamline the Land Use Review Process for Telecommunications Facilities in the Public Rights-of-Way; amending subsection 27-2.20 to include facilities; and repealing sub-section 27-21 relating to the Telecommunications Advisory Committee	<i>#24 - Councilor Lindell moved to approve the ordinance relating to the Telecommunications in the Public Rights-of-way Ordinance; amending subsection 27-2.19 SFCC1987 to streamline the Land Use Review Process for Telecommunications Facilities in the Public Rights-of-Way; amending subsection 27-2.20 to include facilities; and repealing sub-section 27-21 relating to the Telecommunications Advisory Committee, with the added wording by Councilor Harris to add: "define and disclosed significant in service coverage. I am proposing to add the applicants, second by Councilor Ives, motion carried by unanimous voice vote.</i>	
Discussion	<i>None</i>	Page 23
Matters from Staff	None	Page 24
Matters from the Committee	Informational	Page 24
Adjourn	There being no further business to come before the Finance Committee the Chair called for adjournment at 6:50 pm	Page 24
Signature Page		Page 24

CITY OF SANTA FE  
FINANCE COMMITTEE  
MINUTES  
Monday, July 31, 2017  
5:00 pm – pm

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1. Call to Order

The Chair, City Councilor Carmichael Dominguez at 5:00 pm, called the regular meeting of the City of Santa Fe Finance Committee to order. A quorum is reflected in Roll Call.

2. Roll Call

Councilor Carmichael Dominguez, Chair  
Councilor Signe Lindell  
Councilor Michael Harris  
Councilor Peter Ives  
Councilor Renee Villarreal

Others Present

Adam Johnson (excused)  
Larry Worstell  
David Quintana  
Noel Correia  
Leroy Pacheco  
Melissa McDonald  
Robert Siqueiros  
Debra Garcia y Griego  
Patricia Hodapp  
Gilda Montano  
Nick Schiavo  
Theresa Gheen  
Kelley Brennan/Marcos Martinez, Legal Counsel  
Fran Lucero, Stenographer

3. Approval of Agenda

No Change from staff

***Councilor Ives, moved to approve the agenda as presented, second by Councilor Villarreal, motion carried by unanimous voice vote.***

4. Approval of Consent Agenda

Request to Pull: # 8, 9, 10, 14, 16, 19, 20, 24,  
Councilor Ives to co-sponsor, Item 21 and 23

***Councilor Villarreal moved to approve the consent agenda as amended with the following consent items pulled: # 8, 9, 10, 14, 16, 19, 20, 24, Councilor Ives to co-sponsor, Item 21 and 23, second by Councilor Ives, motion carried by unanimous voice vote.***

5. Approval of Minutes  
None

#### **CONSENT AGENDA**

6. Request for approval of FY 17-18 Nutrition Service Incentive Program Agreement with the North Central New Mexico Economic Development District Non-Metro Area Agency on Aging in the Amount of \$153,934. (Gino Rinaldi)
7. Request for approval of Professional Services Agreement with North Central New Mexico Economic Development District Non-Metro Area Agency on Aging in the amount of \$766,471. (Gino Rinaldi)
8. Request for approval of Professional Services Agreement No. 2 in the amount of \$48,440, consulting support and assistance with radio system upgrades and repairs for the City of Santa Fe. Obsidian Consulting LLC (Larry Worstell)

Councilor Villarreal looked at the PSA and we had an Amendment in April and asked why the second amendment was as close to the last one.

Mr. Worstell: Two reasons, it is somewhat of an expanded scope based on some information that came to us in the initial analysis. We have assorted radio towers throughout the city, we were attempting to upgrade the San Mateo tower; we want to add 6' to it. We have leased out a portion of it before to T-Mobile and we were trying to connect to the upper Canyon Road which is part water and basically has a (\_\_\_\_) circuit, if everyone remembers the acronym, we cannot get fiber up to Canyon Road. The other part of this was station #4 has been dormant for about 18 years. We have had some interest in private companies wanting to put antennas on the ham radio operators. We needed a spot for their repeaters so we had we had to bring up to standards that tower and the facility that supports it. We couldn't do both at the same time and did not want to put a PSA in for \$60,000, just wanted to get that particular work done last Fiscal Year. They finished the tower at #4, which is down by the hospital. We will now start the work on the San Mateo tower and we are also working on a grant, I haven't really published the process outside of IT to work on the tower at Los Montoya's where the city owns the property which is the highest tower within the city limits. There is a host of point-to-point studies that need to be done between tower sites. This is probably on going, he is also doing some research work

on our public safety radio's system in conjunction with our other consultant. We are working with another consultant to prepare another RFP for public safety radio. They are all intertwined so to speak. Mr. Worstell is running the project and is happy to provide any drawings.

Councilor Lindell had the opportunity to go and see the set up of the ham operators and the preparedness that they have for us under disastrous conditions. I would hope to be helpful to that group as we possibly could be. The volunteers and the work they do at times is under appreciated and any help that we could give them, I would be very appreciative.

***Councilor Lindell moved to approve Professional Services Agreement No. 2 in the amount of \$48,440, consulting support and assistance with radio system upgrades and repairs for the City of Santa Fe. Obsidian Consulting LLC, second by Councilor Ives, motion carried by unanimous voice vote.***

The Chair said that this looked like it would be on-going work and asked if there would be multiple amendments.

Mr. Worstell said yes, there is a new larger wireless project that he is putting together that involves many towers, basically to have a network for the entire city.

The Chair asked if there are going to be additional Amendments.

Mr. Worstell said not necessarily, it could be another contract but that is yet to be determined, but there will be on-going work with our wireless radio over the next several years.

The Chair re-confirmed that this ends in 5 years. Mr. Worstell said that was correct.

The Chair shared his concern that in a year from now there would be an Amendment No 3 for basically items for another year. He stated that he does not know the process you initially need to go through and asked that they exercise caution. The Finance Committee has stressed that when you start to see Amendment(s) it continues to add up and there isn't a grasp on what is really going on. You have to do what you have to do, asked the question what the Finance Committee should expect and Amendment No. 3 in a year.

Mr. Worstell said that he is going on the advice of his financial advisor and at this point whatever best fits the responsibility is what he will do. Basically they went over the \$50,000 over the 4-year period.

9. Request for approval to amend FY 17-18 Capital Improvement Plan to reflect Cerrillos Road Phase II-C as a funded project and approve budget amendment in the amount of \$652,439 to re-appropriate and properly reflect approved contract amendment and grant funding. (David Quintana)

Councilor Lindell: Would like clarification how these numbers came to be, there is \$95,000 for a closeout. Is that right, approximately?

Mr. Quintana stated that back in April an Amendment was approved and appropriated \$95,000 to close out the project.

Councilor Lindell asked about the \$652,000 help me see how that works in to this.

Mr. Quintana stated that the additional funding that they need to BAR into the project is cash funding and additional NMDOT funding that was available and needs to be BAR'd into the project to complete it. There are outstanding payments that need to be made to the contractor. We will have \$200,000 or so to pay the contractors and we have some outstanding payments to the contractor that this money will cover.

Councilor Lindell: Is the project within the budget of what we original expected?

Mr. Quintana said yes, the original budget when this project was approved was approximately \$10.8 million. This BAR is budgeting the remaining balance of that original project budget to finish this out.

***Councilor Lindell moved to approve and amend FY 17-18 Capital Improvement Plan to reflect Cerrillos Road Phase II-C as a funded project and approve budget amendment in the amount of \$652,439 to re-appropriate and properly reflect approved contract amendment and grant funding, second by Councilor Ives, motion carried by unanimous voice vote.***

Councilor Harris \$10.8 was identified as the construction budget or was that a total project budget?

Mr. Quintana said it was total project budget including development

Councilor Harris stated that what would be very helpful for himself and everyone else; I don't know what your practice is, I would like to see total project budget by category and the costs that go against that category. Another area would be to know where the money; where did the NMDOT money get spent vs. city money. At some point when you close out I would appreciate seeing that.

Mr. Quintana stated it would be his pleasure.

Councilor Harris, clarify for me Mr. Quintana, any requirements for permits, who grants permits on this project?

Mr. Quintana said that permitting would be done through the contractor if any are required. The bigger question is not knowing if you need permits for roadways. They would be required more for building projects, construction type projects for buildings, and plumbing and electrical.

Councilor Harris said, in your experience I am sure there is a distinction for a state highway, are you saying as far as you know that no permits are required and the contractor would be required to get them.

Mr. Quintana said that in his experience with NMDOT projects, roadway projects do not require CID permits. Our contract language does not require to pull a permit from CID or from the City of Santa Fe. For instance a federal project such as Cerrillos Road, once the project has received the necessary approvals from the Federal Government; at that point once the funding has been through NMDOT it is secure. Locally there is not a permitting process.

Councilor Harris that he would continue with future questions when it comes to the roadways permitting process.

Councilor Harris asked Mr. Quintana if he gets all the documents electronically and Mr. Quintana answered yes.

The Chair asked if this was the closeout of the project.

Mr. Quintana said yes, once they close the project they have about 90 days to close it out with NMDOT and an addition 90 days to close it out with the Feds.

The Chair asked what is the next phase.

Mr. Quintana said the next phase he believes is the stretch of Cerrillos Road, which is completely unfunded, and there are no funds for planning documents, that he knows of.

10. Request for approval to award RFP#17/04/P for the Citation Administration and Revenue Reconciliation System to Conduit State and Local Solutions, Inc. in the amount of \$654,000. (Noel Correia)

Councilor Lindell asked: How this differs from what we have now, what the advantages are, how long it will take to make this operational, clarifying that

the cost is for 5 years and did we collect any data from other cities that use this specific system.

Mr. Correia: #1 – The existing system has limitations as it was antiquated, it was no as sophisticated as you can do today. The citizen gets a ticket they can no pay from home, it is seamless. All the appeals that come in, they can appeal through the web. They can also pay be telephone, it is a safe way of paying, it is a method to use phone.

#2 They have asked for 120 days to come on line, our goal is 90 days or less. The cost of the system over 5 years, if we give them to 1-year extensions, the cost will be - \$654,000.

Councilor Lindell wanted to know that this is software that other cities have used in the past, it can sound fantastic, we want to know that this system is tried and true.

We have checked cities like San Antonio, Los Angeles, and Denver.

Councilor Lindell expressed her thanks for his prompt responses.

Councilor Ives we are glad to include specific requirements in our contracts. Are there any hardware requirements in this contract?

The system is a web-based system, there is no hardware that needs to be supplied. It is more software almost the size of a smart phone.

Councilor Ives referenced the amount of \$654,000 first three years and \$218,00 per year.

***Councilor Lindell moved to approve award RFP#17/04/P for the Citation Administration and Revenue Reconciliation System to Conduit State and Local Solutions, Inc. in the amount of \$654,000, second by Councilor Ives motion carried by unanimous voice vote.***

11. Request for approval of budget Amendment for re-appropriation of State Fire Funds in the amount of \$336,182 from FY- 2016-17 operating budget. (Jan Snyder)
12. Request for approval of budget amendments for re-appropriation of State Fire Protection Funds from FY 2016-17 to FY2017-18 Operating Budget. (Jan Snyder)
  - a. Business Unit 22208 in the amount of \$123,155.30 – Ambulance Purchase with scheduled delivery of September 2017
  - b. Business Unit 22232 in the amount of \$366,278.00 – Fire Engine purchase with estimated deliver date of Spring 2017
  - c. Business Unit 22208 in the amount of \$97,732.00 – Vehicle Delivery

13. Request for approval of budget amendment in the amount of \$62,426.58 for the re-appropriation of funds in the MIHO fund from FY 16-17 to FY 17-18. (Andres Mercado)
14. Request for approval of Change Order No. 8 for miscellaneous landscaping in the amount of \$104,000 and of budget Amendment in the amount of \$231,263.24 – Acequia Trail Underpass. (Leroy Pacheco)

Councilor Lindell: Three questions on the landscaping, Pg. 8 (Page 10 of Packet) are these installed prices and was this landscaping bid separately from the entire contract, or was it part of the overall contract.

Mr. Pacheco: Prices do include installation, one year of maintenance and watering. This was part of the original bid but we didn't have funds at that time so it wasn't recommended for award.

Councilor Lindell asked if this was included in the original bid.

Mr. Pacheco said no, this is a change order based on the original bid.

Councilor Lindell said that looking at Page 15, the drawings show sizable trees. Are the trees that we are expecting those size trees?

Mr. Pacheco said that he sent the description of the trees – the trees are typically what you see at the city parks.

Councilor Lindell does the project include irrigation of the trees.

Mr. Pacheco said that the question was raised at Public Works and he sent an e-mail to that committee with the actual detail contract information and what to expect as to the sizes of the plants. They are in the 2-3 inch caliper range and felt the depictions of the trees show more growth but they are typical of what you would see at a city park. They are not saplings they are typically what you buy so that the plants take off.

Councilor Lindell asked about the irrigations for these trees.

Mr. Pacheco: This project is an exemplary project of what the City is hoping to inspire with storm water with what they call LID design. In their design process all storm water that on the site is retained on the site up to 100 year storm. There is an infiltration basin and contrary to the site, we do not lose the water that falls on the site. There is not an intention to irrigate the plants, they will be hand watered, they are designed to be native based and after established require little to minimal water. With the Parks Department they have done this design. In answer to your question, no, there is not an



irrigated landscape but it is intended to eventually become rain water. It will take 3-5 years for the rain water to get to that point.

Councilor Lindell said we are talking about almost 300 plantings here, not a small amount of money. When you say 2-3 inch calipers, what does that mean?

Melissa McDonald, City Landscape Architect: The caliper is 3 feet off the ground, they measure the size of the trunk and that indicates...

Councilor Lindell asked if that was referring to diameter. 2" doesn't sound like a big tree.

Ms. McDonald responded yes, diameter. Trees are 2-3 inches in diameter. They are standard for the industry.

Councilor Lindell said if someone came to her home and wanted to plant a 2-3 inch in diameter tree at \$805 a tree, she would feel like she was overpaying. That seems like a lot of money per tree for a 2-3" in diameter. Project sounds nice, I want it to work but I am worried about fruit trees that we are not irrigating, I know you said you would get them watered for a year. We don't have irrigation with this. On page 24 of packet, this is talking about the change orders and under justification, this is on change order #2 – explains the place to find the description, was that attached?

Mr. Trujillo, said he could not answer as he did not have the Public Works packet with him. Because this is a federally funded project, as we move these change orders through approval we actually have to take it through the DOT's approval process ratified by the FHWA. What it would be referencing is something that bureaucracy approved prior to getting to the point where the city signed it.

Councilor Lindell appreciates Mr. Pacheco's honesty. She said she would have liked to receive more for less money.

Councilor Harris this was bid option #3, they bid \$104,000 plus gross receipts tax. Clarify or verify if there have been any substitutions from the original bid alternate.

Mr. Trujillo: This was the original bid as bid. Sub-contractor is Santa Fe – San Isidro Permaculture, it is a local landscape firm. The local Architect is \_\_\_\_\_. We did re-negotiate from the bid, this is approximately \$10,000 more than the original bid recommended for the award.

Councilor Harris: Was the bid alternate \$94,000 plus the gross receipts tax?

Mr. Pacheco stated that it was along that range. The price went up a little bit and I don't think the prices will come down in the future.

Councilor Harris said that this is a bad practice. If you have bid alternates you should run with those bid alternates. Don't characterize it as a bid alternate here. The fact that you have changed the schedule, added \$10,000 bothers me. Councilor Harris said he has the same question for Mr. Pacheco as he does for Mr. Quintana and knows we have federal dollars. Councilor Harris wants to know what the total project budget is, total project cost, how much total federal, state vs. city. Councilor also wants to know if permits were required by any entity or pulled. Did the project pull permits?

Mr. Trujillo: To answer the first question, he talked about a document that shows the entire project to date. Contracted \$4.8 million dollars, includes \$492,000 for construction management, \$4.3 million for the actual construction, (rounding up) \$51.5 thousand for the change orders that have been approved. The current contracted value of the project is approximately \$9 million. Mr. Pacheco stated they have paid 74% of the construction management fees that includes the last bill through the end of June. They have paid 57% of the construction of vital consulting about \$2.5 million dollars, which is about 57% of the construction fees. It does not include through the last FY payment. We have been reimbursed by the NMDOT \$1.8 million of that money, there is an outstanding \$60,000 that the city is owed. That gives you the details of the value of the contract. The next sheet is the original budget that Council approved at the time of award on May 25, 2016. We established a budget of \$5 million dollars and that included a 3.75% contingency. Ref: 2<sup>nd</sup> page, not including the requested additional budget that they are asking for as part of this approval, he included pending change orders. The contingency would dwindle down to almost nothing. The last page is the proposed budget of this change order, which would bring the budget to \$5.246 million and it would bring our contingency up to a point that is more comfortable in the project.

Councilor Harris: You are sweeping in \$231,000 to the \$20,000 balance. This explanation should have been part of the package. You have done a great amount of good work. It would have given everyone a better opportunity to be more informed. I understand and I will look at it more closely. This is your saving grace. Can you provide more information on the irrigation?

Mr. Trujillo: The design intention, this question goes deeper than the change order that we are bringing up. This was part of the design intention and brought through the public process and the design architect process. Basically the city is looking at ways of turning storm water which we typically move away projects into resources and evaluate how we water parks, water medians, etc. Based on that intention, it was intentionally

designed to not irrigate because of the expense of water, maintenance of irrigation, etc. Hopefully there will be a demonstration where you can achieve a beautiful public space that you don't have to irrigate. You could put an onus on the team, the Parks department, and Architects to make this a success. It was not an after thought it was actually the intention of the design.

Councilor Harris: As you say, the burden does fall on the applicants and people who are charged to pay attention in the Parks Department. Given with all that goes on with upkeep and difficulties of parks and medians, the burden is going to fall on the applicants, yourself and others. If I was consulting and the sub-contractors sent me trees with a 1-year maintenance contract.

Councilor Ives: Thank you for Exhibit A, at Public Works we have our on-going projects scheduled and I presume this is the document that sits behind the information in that particular spreadsheet. I would like to find away and I will talk to the Acting Director of Public Works to have that listing up on the website with links so people who are interested in obtaining more information with regards to City Public Works Projects, will have it more readily available at their fingertips. Thank you very much.

The Chair asked Mr. Pacheco to provide information on Funds 3803 and 3702.

Mr. Trujillo: When the city embarked in trail development program in FY 2004 or thereabouts, we were putting trails funds in less than many business units so the trail 3803 was a general fund that funded projects like Acequia trails and St. Francis Trail so there was not a distinction in the business unit for multiple funds. 3702 was unique and it actually distinguished two funds, the rail and river trail where there was a lot of erosion and last used in 2014 to do the retaining wall project under I-25 along the rail trails. It has been dormant for the last 3 Fiscal Years. At about 2014 the city began to create business units specific to trail segments. Tierra Contenta has their own funds, Acequia trails has its' own; they all have their own funds so they are uniquely spent per project. That wasn't the practice when we began. These are two funds that are older and in the midst of being cleaned up and laid to rest, so to speak.

The Chair asked if 3702 is the balance in that account?

Mr. Trujillo said yes, that is the balance.

The Chair clarified that there will be no balance in that fund when this is completed.

Mr. Trujillo stated that was correct, not in that fund. But there is a fund in the rail trail and the river trail that are newer.

The Chair asked, 3803 is that a carry over from previous years.

Mr. Trujillo said that was correct and the 3803 was actually approved in May of 2016 by the City Council.

The Chair asked if the \$23,000 is the carry over from the previous fiscal year.

Mr. Trujillo clarified, the \$23,000? That may have been a carry over from a previous year and council has already approved this. This is not under scrutiny at the moment.

The Chair asked if her was referring to this being approved in the Capital Budget, is that what is being said?

Mr. Trujillo stated that it was approved in the Council action of May 25, 2016 and in this year's capital budget all those approvals we reflected and it was communicated for them to be carried forward. What the Council did not approve is this 3702, which we are hoping you do approve next week.

The Chair said, you have The Santa Fe Trail connection 426006, you have 3803 in trails, and you have 3702 which is rail and river trails.

Mr. Trujillo said in addition they have 3708 which is Arts Commission.

The Chair said that it is almost \$1 million dollars for the trails.

Mr. Trujillo the amount is reflected in the first page of the spreadsheet. It excludes the 231 but the \$4.82 million in total, the DOT or the Fed's are matching \$2.7 million and the city is picking up the other \$1.2 million in various funds. It has gone up a little based on the change orders. The first group of items reflects the cooperative agreement, because their number won't go up. They won't give us any more money.

The Chair said he was trying to understand where the city's portion is coming from.

Mr. Trujillo said the trails.

The Chair said he is guessing that this is part of the capital budget.

Councilor Ives asked; when you say "this" are you talking about the St. Francis.

The Chair said this is \$700,000 spent on trails, he imagines this is part of the capital budget. The Chair asked Mr. Trujillo to break it down more by the time it goes to Council. The Chair stated there is a lot of trail work to be done in the city and he doesn't want to compromise to get this one done.

Mr. Trujillo made reference to the part that says original budget approved by the city council; that money has already been budgeted and moved in to this project and more so moved in to 4260 for its use. That amount and whatever we used last year or recommending to move with our Capital Budget, so the only new money that is being requested is money out of 3702 which is the additional 231 and that is not in the capital budget. It has not been budgeted for the capital budget, it would have to be and there is a BAR in the package that if the Council approved it would be moved in to the budget. That is the only money that is not accounted for. All the other previously approved money is in the capital budget.

Mr. Trujillo asked if the committee members wanted the permit question answered.

Mr. Trujillo: This project went through the highest level of federal clearance, actually second highest, it has an environmental assessment done which was cleared and includes years of public involvement, federal involvement, state historic preservation, i.e. highest level of federal clearance for a federal highway. Other than a simple city street cut permit, which our contractors have to take out; we know as an organization that this project is going. Also in addition to the street cut permit; these federal projects wouldn't get signed off without this federal signoff. They also have to develop a storm water prevention plan subject to EPA approvals.

Councilor Harris: There seems to be a bid breakdown attached, (page 8 of the packet), dated March 23, 2016 – total is \$104,000. Was that the amount on bid day?

Mr. Trujillo: This was put out to bid, the contract did not change, the city could not identify at that time it went to City Council in May, 2016, we could not identify money to get it to award, so when this fund was obsolete needing to be reallocated, I went through the process of requesting to attempt to get the landscaping in to the project.

Councilor Harris: All I want to know is if on bid day, Bid Alternate #3 identified miscellaneous landscaping, submitted by \_\_\_\_\_ Landscaping, was that \$104,000?

Trujillo: No, it was approximately \$10,000 less.

Councilor Harris: Why did you fill out the March 23<sup>rd</sup> document?

Mr. Trujillo: I filled it out as part of change order #8, which basically it was an exhibit for Order #8, which was \$104,000. Mr. Trujillo stated that he was not attempting to have the committee understand that this what went out to bid. The numbers are not what were submitted on March 23<sup>rd</sup> and they could be changed to July 31<sup>st</sup> to get it in to the city council packet. It was solely intended to give the committee an exhibit, staff did not change any of the line items, the description, units or any contractual language in the original bid. Unfortunately because it is a year later the unit prices went up. Mr. Trujillo said that he could include the original for Council so they can compare line item to line item. The intention was not to communicate that was the bid.

Councilor Harris: It is very mis-leading but that is the effect.

Mr. Trujillo: I apologize.

Councilor Harris: You added dollars, approximately 10% was added to this change order, this bid package; were there substitutions included with that change.

Mr. Trujillo: There were no substitutions; same contract. Time reflects the change

Chair: With the trees, is that the best price you can get?

Mr. Trujillo: We have asked one other professional person and they said that this was affordable. They are also maintaining the work for a year.

The Chair restated his question; "as a representative of the city of Santa Fe, is that a good price; these are tax dollars being spent.

Mr. Trujillo: Personally I believe the cost of waiting the price will be higher, and I don't believe the city's highest travelled road of the city should stay un-landscaped and it is part of our storm water goals. It resonates with me to get the work done, it would be unfortunate to have to go back and pay a consulting engineer to look through as we do the landscape redesign plans and re-bid it out and I would guess that the cost would be even more. "My professional opinion is that I think at this time we have a contractor mobilized at the site and you have savings with that, San Isidro Permaculture is doing the work related to this. I believe, in spite that their number went up a bit, it is in our cities best interest is to move forward.

Chair: We aren't going to get to the point where you underbid it and you recover your profit from change orders, we have a couple of choices, we can take action and send specific information to the council or send it back requesting information.

Councilor Harris said that he remembers on bid day that Vital Consulting was significantly under AUI. Vital Consulting has performed well. It has been a safe project we granted a delay in the winter months, primarily for safety reasons, \$10,000 was a small amount for that type of delay. As far as can be told, Vital Consulting has performed well. When is project scheduled to be complete?

Mr. Trujillo: Contractor has said October 1<sup>st</sup>.

Councilor Harris asked if there is any reason to believe it won't be complete by October 1<sup>st</sup>?

Mr. Trujillo said he does not see any reason for it not to be complete by October 1<sup>st</sup>, although they have been told by the landscape architects that they need to know sooner than later if they will be doing the planting.

***Councilor Harris moved to recommend approval of Change Order No. 8 for miscellaneous landscaping in the amount of \$104,000 and that budget Amendment in the amount of \$231,263.24 – Acequia Trail Underpass, second by Councilor Ives, motion carried by unanimous voice vote.***

Chair: Exhibit A to go to City Council.

15. CIP#482A – Canada Rincon Trail – Final decision – Calle Mejia to Camino Francisca – Request for approval of a Cooperative Services Agreement (CES) Contract with Wilson & Company in the amount of \$89,294.44 excluding NMGR and a 1% CES administrative fee. (Leroy Pacheco)
16. Request for approval of Professional Services Agreement between the City of Santa Fe and the Santa Fe Railyard Community Corporation (SFRCC) to fund the approved Capital Improvement Projects in the north Railyard District in the amount of \$240,000. (Robert Siqueiros)

Councilor Harris: We have a standard PSA here and looking to Railyard Community Corp., have you asked Mr. \_\_\_\_ about professional liability coverage? You represent the city under these capital improvements. Have you talked about this?

Mr. Siqueiros said that they do carry professional liability?

Councilor Harris asked (Railyard Representative) if they carry professional liability.

Railyard Representative: We have Directors and Officers Insurance and is not sure if this is synonymous with Professional Liability. We are not doing the actual design work, for example on the parking, Bohannen Houston is doing the work and they carry Professional Liability. Since we are not stamping drawings or actually doing the design work ourselves.

Councilor Harris: Professional Liability goes way beyond years of exposure. Councilor Harris recommended that Railyard Representative speak with Barbara Boltreck and do a risk assessment letting her know all that you do, your corporation does a tremendous amount on behalf of the city. Well beyond CIPs, public events, public safety is involved. It would be to your benefit and the city benefit to understand the importance of Professional Liability. She may say it is not necessary or that there is a simple waiver form.

Councilor Harris: Do you get permits for these?

Mr. Siqueiros: Most of the permits are issued by CID, typically they will not issue infrastructure permits, and however we do have architect stamps as well as Engineering stamps. Occasionally they will get a courtesy review by the Building Inspectors Department, Building review. CID typically does not issue infrastructure permits. In terms of ADA permits we have city staff that does a review on ADA compliance.

Councilor Harris: If I called Mr. Romero and asked him if they issue permits, will he say no.

Mr. Siqueiros said he could guarantee they would say no.

***Councilor Ives moved to approve Professional Services Agreement between the City of Santa Fe and the Santa Fe Railyard Community Corporation (SFRCC) to fund the approved Capital Improvement Projects in the north Railyard District in the amount of \$240,000, second by Councilor Lindell, motion carried by unanimous voice vote.***

17. Request for approval of Professional Services Agreement between the city of Santa Fe and the Santa Fe Railyard Park Conservancy for Management of the Santa Fe Railyard Park Programs in the amount of \$100,000 (Robert Siqueiros)
18. Request for approval of RFP 17/51/P Professional Services Agreements with nine (9) vendors to provide services under the Lodger's Tax for the Arts Ordinance: Category C, FY 17-18 in the total amount of \$125,000 (Jackie Camborde)
19. Request for approval of RFP 17/52/P Professional Services Agreements with seven (7) vendors to provide services under the Lodger's Tax for the Arts



Ordinance: Category B, FY 17-18 in the total amount of \$45,000 (Jackie Camborde)

Councilor Villarreal asked how the funding would be used with the exception of the Spanish Dance Art Society, it didn't say specifically marketing materials.

Debra Garcia y Griego: Short answer, half of those funds must go to marketing line items. In keeping with the intent of our Lodgers Tax, half the funds will go to marketing and promotion. Some organizations choose to off set other costs like artist fees an administrative cost.

Councilor Villarreal: This would help the Performing Arts Society to know what goes to tourism and art, just to be able to separate how it is broken down and how they will promote themselves and will it be through our tourism department.

Ms. Garcia y Griego will provide that information for the city council packet.

***Councilor Villarreal moved to approve RFP 17/52/P Professional Services Agreements with seven (7) vendors to provide services under the Lodger's Tax for the Arts Ordinance: Category B, FY 17-18 in the total amount of \$45,000, second by Councilor Ives, motion carried by unanimous voice vote.***

20. Request for approval of a Resolution directing the City Manager to initiate a Planning and Feasibility study for the Future of the Santa Library System (Patricia Hodapp)

Councilor Lindell: On page 2 where it talks about consultant will provide such research including but not limited to; are ABC reference to creating D?

Chris Sanchez: That is correct, the answer is yes, and ABC will lead up to D. Essentially what we are trying to do is a SWAT analysis to determine where we are and ways to move forward to get our libraries in the 20 percentile.

Councilor Lindell: It reads a little odd to me that ABC are the activities that have to be part of the product, which is D. That is ok, just wanted to clarify that. In terms of the budget, was this budgeted this year?

Mr. Sanchez: No it was not, it will come out of the General Fund.

The Chair asked if it was part of the budget under the General Fund?

Mr. Sanchez: No it was not.

Councilor Lindell: That is a problem, didn't we have a resolution that if it was something new we would have to determine where that money was coming from. New monies or giving up something, somewhere; wasn't that a resolution we agreed to, Mr. Chair?

Chair: I am not sure what the official position of that resolution is, I do remember the conversation, yes and that essentially we would find a funding source for things that were done from General Fund.

Councilor Lindell referred to Resolution dated December, 2016 and it had to do with [Governing Body required that new or expansion of existing programs or services, identify funding source as an offset to provide funding for new or expanded program.] I don't know if this is considered a new program or service. I took this document really serious, when I signed on to it and I don't want to stop this, I think it is a good thing to do, but I don't want to sign on and support something that is in conflict with something that we all agreed to previously. Councilor Lindell state that for her it needs some clarification on why this wouldn't fall under that.

The Chair stated that he believes it does fall under that but the question is what funds are going to be used for this. Is it salary savings that they want to use, or is the Finance Department recommending what can be used.

Mr. Sanchez: In talking with the Finance Director, he had identified the funding source for them. What is different is that they have a match from the Library Board and the Friends of the Library. The City would not be carrying the whole bill. In 1999 the last assessment was done and carried by the City and covered the full bill. This time they have a 50% match from the Library Board and the Friends of the Library to cover the assessment, \$37,550 to cover the other half.

Councilor Lindell asked to confirm that the match is \$37,550 and does this go out to a bid?

Mr. Sanchez responded yes, they will do an RFP and send it out nationally to be able to select the best candidate to this roll.

Councilor Villarreal: Finance, where is the funding coming from?

Chair said it might be coming from the excess GRT.

Councilor Villarreal: Would like to see what is earmarked for that GRT as there is a list of items waiting to be funded.

Chair: It doesn't really qualify for capital outlay. When we talk about library systems, this is a question for the sponsors; are we looking at the systems

that run the library, are we talking about needing more libraries or less library capital?

Councilor Villarreal: We would like to know if the Finance Director can confirm what the funding source was.

Councilor Ives: The nature of the assessment is not one where the conclusion can be reached, it is meant to be an assessment across the entire library system and there are differences on functions and services they deliver. It could be well within the CIP funding, and we will wait to hear from Finance and learn what Adam would recommend or if there is any remaining CIP funding. Given the small amount, I would say to wait for the identified funding source. This really will be a system wide assessment against the nature of libraries, considering where we have libraries all the use figures that you bring during the budget process as well as some of the dynamic changes that are occurring, Lafarge library, library on the campus of Art and Design. Based upon those used numbers it is one if not the most frequently accessed in the city on touches to the library system

Mr. Sanchez stated that Councilor Ives comments are right in line with what they are trying to do throughout the library system.

Councilor Ives noted that in closing based upon those use numbers is one of the most frequently accessed, not one of the frequently accessed system of the city utilized by the people of Santa Fe in terms of the hundreds of thousands of visits to our library in a year.

***Councilor Ives moved to approve Resolution directing the City Manager to initiate a Planning and Feasibility study for the Future of the Santa Library System, second by Councilor Villarreal, motion carried by unanimous voice vote.***

The Chair stated that it would be his reference that it come out of CIP money, there is flexibility there. When we talk about library systems, La Farge is clearly one that needs to be a part of that. It is a one-time expense, it is not an operation.

Councilor Harris: How are you defining community, how does the Library define community?

Mr. Sanchez: It is very much like we do with Youth and Family service, as we do with senior community, community is all of Santa Fe. Being able to take a look at all he annexed county and really understand where we are in terms of library. So the community in its entirety.

Councilor Harris: Are you rolling the county in?

Mr. Sanchez concurred that this is correct.

Councilor Harris stated that the last he heard, the County residents count for 20% of our cardholders. The intention through this RFP process talks about local outreach, town home meetings, surveys, focus groups; is it your intent to include the county residents in that? Not necessarily the formal county entity but the residents.

Mr. Sanchez: Yes we will include those 20% who have library cards or access the library.

Councilor Harris: Does the city of Santa Fe receive any amount of funding from Santa Fe County to support our City libraries?

Ms. Hodapp: The Library received between \$25,000 a year as a gift from Santa Fe County to provide services. There has never been an MOU with Santa Fe County.

Councilor Harris: That is not what I remember and to characterize it as a gift. I won't say that county residents have to pay for their cards but would like some acknowledgement on how much the city supports the users of Santa Fe County. Councilor Harris stated that he would like to have a discussion with Santa Fe County to hear their version. What is the timeline on this?

Ms. Hodapp: If it passes, which I assume it will. The Library Board and the Friends of the Library will continue to raise money to assure that there is enough for the entire assessment. We will then go through the entire RFP process, we are looking at the beginning of January 2018 to start project. This could be 4-6 month project.

Councilor Harris: It could be beneficial to the city and certainly to the library if we could have a better discussion on what the library does and how we can use the library.

Ms. Hodapp said that their new report has come through that showed over 722,000 people visited the Libraries more than once.

Chair thank you to the Friends of the Library have done in raising part of that money. We are in need since this assessment hasn't been done since 1999.

21. Request for a Resolution supporting the NM Litter Control and Beautification Act of 1985, which provides public funds in the form of grants for the purpose of enhancing local litter control and beautification program. (Gilda Montano)

22. Request for approval of a Resolution Adopting the FY2019-2023 Infrastructure Capital Improvement Plan (ICIP). (Nick Schiavo)
23. Request for approval of an Ordinance relating to Animal Welfare; amending subsection 5-2 SFCC 1987 to add definitions; and amending sub-section 5-10 to prohibit traveling animal acts. (Theresa Gheen)
24. Request for approval of an ordinance relating to the Telecommunications in the Public Rights-of-way Ordinance; amending sub-section 27-2.19 SFCC1987 to streamline the Land Use Review Process for Telecommunications Facilities in the Public Rights-of-Way; amending subsection 27-2.20 to include facilities; and repealing sub-section 27-21 relating to the Telecommunications Advisory Committee. (Kelley Brennan/Marcos Martinez).

Councilor Lindell: Numerous people on this committee heard this at Public Works. There is nothing specific, welcome the explanation in order to communicate with our constituents who have made contact with us regarding this Ordinance and why the committee has this before them at this time.

Kelley Brennan:

Background memo and metrics and Q&A metrics responding to the public questions is included in the meeting packet today. Generally this is to address issues in the Land Use Review provisions of the Franchise Ordinance, Chapter 27 which addresses only the public rights of way that does not include parks or other public property. The Federal Law has changed since the Ordinance was originally adopted in that it has set a period of time within which one of those applications must be reviewed and approved or not and those are respectively 90-150 days for co-location. Those are fairly tight time frames from when we adopted the ordinance, putting things through our usual process which seemed reasonable to standard. That standard has changed to specific periods of times in which it is presumed to be a reasonable amount of time to process an application. Because we are prohibited by Federal law does not allow us to regulate in a manner that effectively prohibits provision of telecommunication services. The honors process and the lengthy process of going through the Planning Commission and also the Historic Districts Review Board could be deemed to be effectively prohibited. There are also more provisions, one the Notice Provision were stiffer than for other kinds of applications; which again might be deemed to be effectively prohibited. Also it became to seem an unwieldy process from a practical view point. The technology has also moved more towards small cell, wireless antennas which are more unobtrusive and when we originally directed the Ordinance, the idea seemed to be that there would be networks throughout the city and that we would be approving a network

of multiple. What we have seen are requests to consider 2-3 antennas. It appears that providers are being more strategic to fill their gaps and coverage. These address a number of these things that raised questions of prohibition. Also from a practical view and experience of staff, I think it is more reasonable not just for providers, but for a process with people that have to gain more experience as we go along.

***Councilor Lindell moved to approve the ordinance relating to the Telecommunications in the Public Rights-of-way Ordinance; amending sub-section 27-2.19 SFCC1987 to streamline the Land Use Review Process for Telecommunications Facilities in the Public Rights-of-Way; amending subsection 27-2.20 to include facilities; and repealing sub-section 27-21 relating to the Telecommunications Advisory Committee, with the added wording by Councilor Harris to add: "define and disclosed significant in service coverage. I am proposing to add the applicants, second by Councilor Ives, motion carried by unanimous voice vote.***

Councilor Villarreal: There are a couple of revisions that were submitted.

Ms. Brennan: On the matrix that was distributed, (Exhibit C) identifies the revisions and were talked about at Public Works. These are the material revisions. This Exhibit does address some of the questions that came up at Public Works and some of them just clarify. On page #1 of the Matrix, *The sponsors are proposing an amendment to Section 27-2-19 C (1)(a) to clarify that location for pre-approved designs must also be approved by the Land Use Department (LUD) before commencement of construction.* Where there is a pre approved design there has to be a Land Use design sign off on the location. That seemed a given but we realized that it was not explicitly stated.

*#2 – The sponsors are proposing an amendment to Section 27-1.19E. To clarify that early neighborhood notification (ENN) is required prior to Planning Commission review and that standard Planning Commission procedures (including notice) will apply. – This question was asked at Public Works. Ms. Brennan thought it was because the ENN was a provision in Chapter 14 refers to telecommunication facilities but that is Chapter 14 and this is under Chapter 27. This clarifies that.*

*#3 – Proposing an Amendment for a 10-day period for submittal of written comments to the LUD after applications are posted on the City's website by review from staff.*

*#11 Refers to (see #2 above) the ENN and standard provisions for the Planning Commission.*

#15 Refers back to #2 about ENN and the standard procedures for the Planning Commission, which has notice requirements.

A question arose whether landscaping improvements in the rights of way would be protected and the sponsors are proposing an amendment to clarify the situation in siting telecommunications facilities to minimize the disruption to landscaping in the rights of way and that some people had landscaped in the rights of way as volunteers and others have applied for licenses from the city to landscape, sort of two things but in either case the location would have to be approved. It would not only have to minimize impact it would have to restore to conditions around.

Councilor Harris: I have read reiterations several times and I sorted out and became concerned about the gap in coverage. In looking at page 5 of the ordinance itself and you make it clear under 2B – line 5 and 6 that *“the application is necessary in order to close a proven significant gap in service coverage, either generally or of the applicant; and...”* I would suggest on page 9 of the ordinance and line 18, just to be really clear, add *“define and disclosed significant in service coverage. I am proposing to add the applicants.* I want to make sure that there is no misunderstanding. As I read it, and particularly the amendments, beginning with #5 on the amendment sheet there are out of sync with this copy of the ordinance.

Jesse: As you work your way down the bill you will see the markup that Kelley has done, the pagination was added as lines so the Amendments are on the original bill.

Ms. Brennan: The pagination will be corrected; the amendment sheet will represent the official.

Councilor Harris: Back to my proposed addition on page 9 – is this agreeable to you?

Ms. Brennan agreed and will show it on the Amendment sheet. The amendments on the sheet are reflected in the mark up and also in the matrix. Needless to say, Ms. Brennan did not put every one in, there were some that were a simple clarifying point which she felt was self explanatory.

The Chair asked if the content in this matrix is reflected in the amendment sheet.

Ms. Brennan stated that she provided this document as it would be easier to follow. Amendment sheets can be difficult.

Councilor Ives stated that in referring to the Sponsors, he only sees Councilor Harris.

Ms. Brennan: Councilor Ives is on the official bill.

Councilor Ives requested clarity on the amount of aesthetic capacity the city has to locate these towers. The pre approved designs allow us to view that.

Ms. Brennan stated that it is to further allow and simplify the process. Because the designs are now straightforward, it should be easy for people to view designs and location has to be approved separately in that sense and that is why we called it out. I am not sure if you remember the back flow preventer issue and the unfortunate location of a monitor station in front of a historic building and historic tree that we would not want to see repeated.

Councilor Ives: When we talk about an approved design, as a reference to?

Ms. Brennan – For instance we had seen some designs, calling them designs was a little extreme, tall wood telephone poles with a bunch of stuff on top in very bad locations. In talking to that provider we basically rejected those designs and they are now proposing a new design that is our basic street light with a 2 baler structure that goes above the street light in the same fashion. For the rights of way, it should be easy to approve and we can't approve in private property throughout the city.

Councilor Ives: What is in the existing code for this purpose.

Ms. Brennan said she is anticipating taking forward some plans that are approvable as models in the future.

Chair: Page 3 of the Ordinance, line 23-25 – This is basically saying that if it goes before CID it goes regardless of the Finance Committee process.

Ms. Brennan said yes as talked about earlier in the meeting, for something on private property the city issues the permits, city property the permits come from CID. For construction on city property including our own we need permitting through CID.

Chair: If we get an exemption from the city do we still go before CID?

Ms. Brennan: Just because you don't need a city permit does not mean you don't have to go before CID.

## **DISCUSSION**

### **MATTERS FROM STAFF**

**NONE**



**MATTERS FROM THE COMMITTEE**

Councilor Ives: Reference Multi-year budgeting process we are going to push out to Public works in September to talk about the CIP and their 20-year plan. We want the Airport and we would like to have the CIP plans, and engaging the plans that we have throughout the city.

Chair asked Staff to have the Finance Director call so they could kick off this discussion.

**EXECUTIVE SESSION**

N/A

**ADJOURN**

There being no further business to come before the Finance Committee, the meeting was adjourned by the Chair at 6:50 pm

**SIGNATURE PAGE:**

  
CARMICHAEL DOMINGUEZ, CHAIR


  
FRAN LUCERO, STENOGRAPHER

Exhibit A.

CIP #859A St. Francis Crossing from Acequia Trail to SF Railyard									
Contract No. D15004/1									
NMDOT Control Number S100390									
Cooperative Project Agreement									
Federal D15004 (85.44%)		TOTAL		Federal Actual Share (76%)		City Actual Share (24%)			
City Match (14.56%)		\$ 3,263,808.00		\$		\$		556,192.00	
Federal D15004/1 (85.44%)		\$ 596,192.00		\$		\$			
City Match (14.56%)		\$ 401,964.00		\$		\$		68,500.00	
City's Unmatched Remainder		\$ 536,527.73		\$		\$		536,527.73	
TOTAL		\$ 4,826,991.73		\$ 3,665,772.00		\$		1,181,219.73	
CONTRACTORS									
Louis Berger Group- LBG (Construction Management)									
Vital Consulting Group - VCG (Construction)				CONTRACT TOTAL					
Approved VCG Change Orders to Date				\$ 492,229.03					
				\$ 4,334,762.70					
				\$ 51,486.35					
		TOTAL		\$		\$		4,878,478.08	
City Payments to Louis Berger Group to Date									
Payment #	Date of ACH Payment	Amount	Invoice #						
10		\$ 28,109.38							
9	06/15/2017	\$ 47,441.61	146755						
8	05/28/2017	\$ 43,440.63	145236						
7	04/15/2017	\$ 19,273.29	139512						
6	02/17/2017	\$ 7,009.02	133981						
5	01/25/2017	\$ 69,054.10	131661						
4	11/17/2016	\$ 65,512.89	119737						
3	10/13/2016	\$ 44,388.61	114905						
2	09/16/2016	\$ 28,428.14	160339						
1	08/05/2016	\$ 9,596.57	108778						
Total Payments to LBG to Date		\$ 362,254.24							
% COMPLETE		74%							
City Payments to Vital Consulting Group to Date									
Reimbursement Request #	Date of ACH Payment	Amount	Reimbursable	Invoice #	Date	Amount	Trace #		
1	08/17/16	\$ 103,980.00	\$ 88,840.51	116170527	11/01/16	\$ 88,840.51	14672146		
2	12/06/16	\$ 421,599.15	\$ 360,214.31	216170527	03/28/17	\$ 760,715.63	11135249		
	01/04/17	\$ 468,751.54	\$ 400,601.32	316170527					
	02/21/17	\$ 140,844.99	\$ 120,337.96	516170527	07/19/17	\$ 992,521.03	11621650		
3	03/29/17	\$ 31,489.77	\$ 26,904.86	616170521					
	05/03/17	\$ 311.94	\$ 266.52	716170527					
	05/11/17	\$ 989,011.81	\$ 845,011.69	816170527					
	06/14/17	\$ 112,421.42	\$ 96,052.86	916170527					
4	07/19/17	\$ 246,402.47	\$ 210,526.27	1016170527					
Total Payments to VCG to Date		\$ 2,514,813.09	\$ 2,148,656.30	Reimbursed to Date		\$ 1,842,077.17			
% COMPLETE		89%							
		FEDERAL SHARE \$		3,665,772.00					
		CITY SHARE (MATCH) \$		624,692.00					
		CITY SHARE (NO MATCH) \$		536,527.73					
		CHANGE ORDERS (NO MATCH) \$		51,486.35					
		CONTRACT TOTAL \$		4,878,478.08		Remaining Federal Share Balance		\$ 1,517,116.70	

## ORIGINAL BUDGET

## Budget Summary for St. Francis Crossing - Acequia Trail to Railway

Fund	Acequia Trail	Description	Budget	Original Budget approved by city council May 25, 2016
426004	2012 Bond Reallocation	Acequia Trail Underpass @ St. Francis/Cerrillos2	\$ 556,200.00	
	Contingency	Contingency	\$ 40,000.00	
	2008 Bond	Originally budgeted for ROW in WIP Land Costs	\$ 100,000.00	
	NMDOT Cooperative Agreement	Federal CMAQ Funds - Contract #D15004/1	\$ 3,665,772.44	
426006	Santa Fe River Trail Connections	Remaining Budget Carryover	\$ 480,000.00	
3803	Trails		\$ 23,000.00	
3708	Arts Commission		\$ 150,000.00	
		<b>Budget Allocation</b>	<b>\$ 5,014,972.44</b>	
	RFB 16/27/B - Construction Services	Vital Consulting Inc. - Base Bid	\$ 3,477,199.05	
		Vital Consulting Inc. - Bid Alt 1	\$ 262,880.00	
		Vital Consulting Inc. - Bid Alt 2	\$ 262,010.00	
		Vital Consulting Inc. - Bid Alt 3	\$ -	
		NMGRT	\$ 332,673.65	
			\$ 4,334,762.70	
	RFP 16/15/P - Construction Management	Louis Berger Group	\$ 454,452.65	
		NMGRT	\$ 37,776.38	
			\$ 492,229.03	
		3.75% Contingency	\$ 187,980.71	
		<b>Projected Expenses</b>	<b>\$ 5,014,972.44</b>	
		<b>Remaining Budget</b>	<b>\$ -</b>	

Budget

Budget		Original Budget approved by city council May 25, 2016	
426004	2012 Bond Reallocation		
	Contingency	\$	556,200.00
426006	2008 Bond	\$	40,000.00
3803	NMDOT Cooperative Agreement	\$	100,000.00
3708	Santa Fe River Trail Connections	\$	3,665,772.44
	Trails	\$	480,000.00
	Arts Commission	\$	23,000.00
		\$	150,000.00
		\$	5,014,972.44
	<b>Budget Allocation</b>	\$	
	Vital Consulting Inc. - Base Bid	\$	3,477,199.05
	Vital Consulting Inc. - Bid Alt 1	\$	262,880.00
	Vital Consulting Inc. - Bid Alt 2	\$	262,010.00
	Vital Consulting Inc. - Bid Alt 3	\$	-
	Approved Change Order 2	\$	20,405.00
	Approved Change Order 3	\$	10,000.00
	Approved Change Order 5	\$	17,955.00
	Approved Change Order 6	\$	2,500.00
	Pending Change Order 8	\$	104,000.00
	NMGRT	\$	345,546.39
		\$	4,502,495.44
	<b>RFB 16/27/B - Construction Services</b>		
	Louis Berger Group	\$	454,452.65
	NMGRT	\$	37,776.38
		\$	492,229.03
	<b>RFP 16/15/P - Construction Management</b>		
	0.40% Contingency	\$	20,247.97
	<b>Projected Expenses</b>	\$	5,014,972.44
	<b>Remaining Budget</b>	\$	-

Acequia Trail Underpass @ St. Francis/Cerrillos2  
Contingency  
Originally budgeted for ROW in WIP Land Costs  
Federal CMAQ Funds - Contract #D15004/1  
Remaining Budget Carryover

**Budget Summary for St. Francis Crossing - Acequia Trail to Railway**

Fund		Acequia Trail	Description	Budget
426004		2012 Bond Reallocation Contingency	Acequia Trail Underpass @ St.Francis/Cerrillos2	\$ 556,200.00
		2008 Bond	Contingency	\$ 40,000.00
		NMDOT Cooperative Agreement	Originally budgeted for ROW in WIP Land Costs	\$ 100,000.00
		Santa Fe River Trail Connections	Federal CMAQ Funds - Contract #D15004/1	\$ 3,665,772.44
426006		Trails	Remaining Budget Carryover	\$ 480,000.00
3803		Arts Commission		\$ 23,000.00
3708		<i>Santa Fe Rail and River Trail</i>	<i>BU remaining cash balance transfer</i>	\$ 150,000.00
3702				\$ 231,263.24
			<b>Budget Allocation</b>	<b>\$ 5,246,235.68</b>
<b>RFB 16/27/B - Construction Services</b>				
			Vital Consulting Inc. - Base Bid	\$ 3,477,199.05
			Vital Consulting Inc. - Bid Alt 1	\$ 262,880.00
			Vital Consulting Inc. - Bid Alt 2	\$ 262,010.00
			Vital Consulting Inc. - Bid Alt 3	\$ -
			Approved Change Order 2	\$ 20,405.00
			Approved Change Order 3	\$ 10,000.00
			Approved Change Order 5	\$ 17,955.00
			Approved Change Order 6	\$ 2,500.00
			Pending Change Order 8	\$ 104,000.00
			NMGRT	\$ 345,546.39
				\$ 4,502,495.44
<b>RFP 16/15/P - Construction Management</b>				
			Louis Berger Group	\$ 454,452.65
			NMGRT	\$ 37,776.38
				\$ 492,229.03
			4.79% Contingency	\$ 251,511.21
			<b>Projected Expenses</b>	<b>\$ 5,246,235.68</b>
			<b>Remaining Budget</b>	<b>\$ -</b>

Original Budget  
approved by  
city council  
May 25, 2016

Budget

**CITY OF SANTA FE, NEW MEXICO  
PROPOSED AMENDMENT(S) TO BILL NO. 2017-\_\_  
Telecom Land Use Review Changes**

Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2017-\_\_:

1. On page 2, line 18 *delete* "without limitation" and *insert* "including but not limited to" in lieu thereof
2. On page 3, line 5 after "design" *insert* "and of the proposed location"
3. On page 3, line 6 after "the work" *insert* "and the city approves the proposed location of the facilities"
4. On page 4, line 19 after "commission" *insert* "after early neighborhood notification and in accordance with standards planning commission procedures"
5. On page 5, line 24 at the end of the sentence *insert* ", or in locations where the city determines that new street lights are needed and approves their installation for collocation"
6. On page 7, line 7 after "permitted in" *insert* "the public rights of way in"
7. On page 7, line 13 after "shall be" *insert* "located"
8. On page 7, line 18 *delete* "painted to match" and *insert* "with a matching finish" in lieu thereof
9. On page 7, line 21 after "natural" *insert* "or built"
10. On page 7, line 21 after "environment" *insert* ", including, without limitation, landscaping in the public rights of way"
11. On page 10, line 19 insert the following new sentence at the end of the line "The public may submit written comments to the land use department for its consideration for a period of ten (10) calendar days after the website posting on all applications that do not require planning commission approval."

Respectfully submitted,

\_\_\_\_\_  
Mike Harris, Councilor

ADOPTED: \_\_\_\_\_  
NOT ADOPTED: \_\_\_\_\_  
DATE: \_\_\_\_\_

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

Date: July 24, 2017; Revised July 31, 2017

Staff responses to comments received regarding the proposed amendments to SFCC 27-2.19, streamlining the land use review process for telecommunications facilities in the Public Rights-of-Way (PROW). For additional information, please see the Memorandum to the Governing Body from the City Attorney dated July 17, 2017 for the July 24, 2017 Meeting of the Public Works Committee included in the packet for that meeting.

	<b>Public Comment</b>	<b>Staff Response</b>
1.	Will "[e]liminate review by the H-Board or Historic Preservation [Division] (HPD)."	The bill addresses only Section 2.19 of Chapter 27, which regulates land use review in the PROW only. The PROW does not include other City property like parks. Currently, the ordinance requires all applications for facilities in the PROW to be approved by the Planning Commission after approval by the Governing Body of a franchise, as well as by the Historic Districts Review Board (HDRB) if the facilities are located in the historic districts. The bill provides for three levels of land use approval as follows: (1) no application required – the bill identifies this "pre-approved" category at Section 27-2.19 C. (pp. 2-3); (2) administrative approval required – the bill lists identifies this category at Section 27-2.19 D (pp. 3-4); and (3) Planning Commission review – the bill identifies this category at Section 27-2.19 E. (p. 4). The bill provides for the pre-approval by the HDRB of designs for use in the PROW and for applications requiring administrative or Planning Commission review/approval, land use review includes HPD. <b>[REV 7/31/17]</b> The sponsors are proposing an amendment to Section 27-2.19 C (1)(a) to clarify that locations for pre-approved designs must also be approved by the Land Use Department (LUD) before commencement of construction
2.	Will "eliminate review by the Planning Commission."	See # 1 above. <b>[REV 7/31/17]</b> The sponsors are proposing an amendment to Section 27-2.19 E. to clarify that early neighborhood notification

*Exhibit C*

		(ENN) is required prior to Planning Commission review and that standard Planning Commission procedures (including notice) will apply.
3.	Will "eliminate all public hearings."	Public hearings will be required to obtain a franchise, and for Planning Commission review. See # 2 above. [REV 7/31/17] In addition, the sponsors are proposing an amendment to Section 27-2.19 G. (10) providing for a 10-day period for submittal of written comments to the LUD after applications are posted on the City's website.
4.	Will "[e]liminate all requirements for proof of compliance with the FCC's radio frequency exposure standards."	Franchisees are required to comply with all federal, state and local laws and to protect and safeguard the health and safety of the public by observing all rules relating to the facilities under local, state and federal law. (Section 27-2.8 A. and I.) In addition, the bill retains the requirement that "[a]t all times, a telecommunications provider shall ensure that its telecommunications facilities comply with the most current regulatory and operational standards including but not limited to radio frequency emissions standards adopted by the FCC..." (Section 27-2.19 J., p.14) The bill deletes record-keeping and review requirements that the City is not equipped to enforce and that are properly the province of the FCC.
5.	Will "[e]liminate the prohibition on guyed and lattice towers in historic and residential districts."	Based upon the design standards intended to minimize visual impact, these kinds of towers would not be permitted in the PROW; in addition, it's unlikely that there is sufficient space in the PROW to accommodate them.
6.	Will "[e]liminate the requirements to obtain building permits from the City."	The City does not issue building permits for construction on City-owned land like the PROW; building permits must be obtained from the NM Construction Industries Division. The language in the current ordinance requiring City building permits is erroneous and has thus been deleted.
7.	Will "[e]liminate the requirements to obtain electrical permits from the City."	See # 6 above. The same principle applies to electrical permits.
8.	Will "[e]liminate the requirement of 'clear and compelling' evidence of a gap in coverage."	The evidentiary standard applied to all applications and established by case law requires a decision to be supported by substantial evidence in the record. "Substantial evidence" means such relevant



		evidence as a reasonable mind might accept as adequate to support a conclusion. There is no basis for establishing a higher standard for telecommunications facilities, which might be viewed as effectively prohibitive.
9.	Will "[e]liminate the requirement for 'clear and compelling' evidence to obtain a variance."	See # 8 above for the basis for deleting the higher evidentiary standard for a waiver (there is no variance provision.)
10.	Will "[e]liminate the Telecommunications Advisory Committee."	While the City may choose to create a telecommunications committee to advise on policy and planning, the franchise ordinance is not an appropriate place to do so, as it regulates only the PROW; it appears, based on Resolution 2017-48, that the role is being filled by economic development.
11.	"...the bill appears to retain Planning Commission oversight and public hearings before a franchise can be awarded, but ...all applications will now be exempt from those requirements."	The Governing Body must approve a franchise in the form of an ordinance after a public hearing, before a franchisee can locate facilities in the PROW. This requirement is found at SFCC Section 27-2.4 C. See also SFCC Section 27-2.4 D. This requirement is unchanged. The current ordinance requires <u>all</u> applications for telecommunications facilities in the PROW to be reviewed by the Planning Commission. The bill provides for three levels of land use review/approval as noted in # 1 above. The third level requires Planning Commission review and approval, with notice and a public hearing in accordance with standard procedures for applications reviewed by the Planning Commission. [REV 7/31/17] See also # 2 above for a description of a clarifying amendment proposed by the sponsors.
12.	"Santa Fe is doing exactly the opposite of what hundreds of other cities are doing all over the country."	The proposed changes are intended to remove barriers to entry to the PROW in accordance with federal law and with City Resolution 2017-48. Although a number of individuals state that other cities are moving in the opposite direction, their statements instead indicate the contrary, pointing to legal challenges to support their claims, e.g., "...in California, S.B. 649, which passed the Senate and is pending in the Assembly, would make 'small wireless facilities' a permitted use in all public rights-of-way and would exempt them from municipal zoning regulations. The League of California Cities, the AARP, and 170 individual cities are opposing this bill and will

		likely go to court immediately if it passes." The same claim is made regarding S.B. 331, which was recently declared invalid by the court. The Ohio bill was declared invalid because it stripped municipalities of their right to regulate telecommunications facilities in their PROW, including micro-wireless facilities. More importantly, the law violated the Ohio Constitution and constituted "logrolling", or the bundling of multiple topics in one bill (the law originally addressed dog sales and cockfighting). Similarly, challenges to the California bill, if passed, are likely to be based on the usurpation by the State of municipal rights to regulate their PROW. The proposed bill is not analogous because the City is regulating its own PROW, rather than the State.
13.	"Permits new cell towers up to 100 feet tall" based upon "the height of any structure, street light or telephone pole within 150 feet."	The 150-foot radius standard applies only to structures in the PROW. While 100-foot cell towers are permitted on private property in commercial districts under Chapter 14, they are not located in the PROW and thus would not be included in the 150-foot radius.
14.	Section 2.19 G. (7) (pp. 8-11) "...is a ruse..." because "...it only applies to facilities 'requiring land use review under this section,' and virtually all facilities will be exempt from even having to file an application."	See # 1 above. The three levels take into account the visual impact of the facilities. Thus, no application is required for designs pre-approved by the Planning Commission or, in the historic districts, the HDRB, or for the removal of facilities, or for underground facilities, etc. Administrative review is required for new facilities that don't fall under that standard and for modifications to facilities that don't "substantially change" the existing facility, as defined by federal law, e.g., are not more than 10% or 10 feet higher than the existing facility, etc. Everything else must be reviewed and approved by the Planning Commission, including all requests for waivers from the requirements of the ordinance.
15.	Deletes all requirements for public notice.	The bill provides for posting of applications on the City's website, and for following standard procedures, including notice requirements, for applications reviewed and heard by the Planning Commission. It deletes special requirements for telecommunications facilities applications. [REV 7/31/17] See also # 2 above for a description of a clarifying amendment proposed by the sponsors.

16.	Does not protect landscaping improvements in the PROW.	<b>[REV 7/31/17]</b> The sponsors have proposed an amendment to Section 27-2.19 G. (4) (c) to clarify that consideration must be given in siting telecommunications facilities to minimizing disruption to landscaping in the PROW.
17.	“ ...The concern is that Santa Fe will be saturated with Wi-Fi- and mini-cell tower emitters. This causes electromagnetic smog, since they operate at microwave frequencies, to which biological matter is extraordinarily sensitive at sub-thermal levels. The real problem is that, while scientifically evident, it cannot be acknowledged since industry and the military require unlimited usage. Therefore, it can only be limited on other, weaker, grounds. If you don't educate yourself about microwave danger you won't have any reason to oppose the proposal to keep proliferating, and that is my concern.”	Federal law explicitly prohibits regulation by the City of the placement, construction and modification of personal wireless facilities on the basis of the environmental effects (including health effects) of radio frequency emissions to the extent that the facilities comply with FCC regulations.

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2017-\_\_

3 INTRODUCED BY:

4  
5 Councilor Mike Harris

6  
7  
8  
9  
10 AN ORDINANCE

11 RELATING TO THE TELECOMMUNICATIONS IN THE PUBLIC RIGHTS-OF-WAY  
12 ORDINANCE; AMENDING SUBSECTION 27-2.19 SFCC 1987 TO STREAMLINE THE  
13 LAND USE REVIEW PROCESS FOR TELECOMMUNICATIONS FACILITIES IN THE  
14 PUBLIC RIGHTS OF WAY; AMENDING SUBSECTION 27-2.20 TO INCLUDE  
15 FACILITIES; AND REPEALING SUBSECTION 27-21 RELATING TO THE  
16 TELECOMMUNICATIONS ADVISORY COMMITTEE.

17  
18 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

19 Section 1. Subsection 27-2.19 SFCC 1987 (being Ord. #2010-14 § 15, as  
20 amended) is amended to read:

21 27-2.19 Land Use Review.

22 A. General Applicability

23 (1) This subsection applies to all telecommunications facilities located  
24 within the city's public rights of way for which a franchise agreement is required  
25 pursuant to this Article 27-2 SFCC 1987.

1                   (2) Land use review under this Chapter is not required for the following:

2                   (a) telecommunications facilities located within the city limits, but  
3 outside the public rights of way;

4                   (b) telecommunications facilities in existence prior to July 5, 2010 in  
5 the form in which they existed on such date;

6                   (c) emergency and temporary telecommunications facilities or the  
7 emergency repair of telecommunications facilities; and

8                   (d) the underground installation of telecommunications facilities.

9           B. Land Use Review Required

10           (1) Unless otherwise excepted pursuant to subsections 27-2.19 A. (2) and  
11 27-2.19 C., submittal of an application for land use review is required for the following:

12                   (a) The construction of new telecommunications facilities in the  
13 public rights of way, including, but not limited to, the addition of new facilities to  
14 existing facilities, including, but not limited to street lights and telephone poles  
15 (collocations); and

16                   (b) Maintenance, repair and replacement of existing  
17 telecommunications facilities to the extent that such work will increase the  
18 physical dimensions or visual impact of such facilities, including, ~~without~~  
19 ~~limitation~~including but not limited to, the addition of new elements that  
20 increase visual clutter.

21           (2) Land use review is separate from and in addition to the requirement for  
22 submittal of an application to the New Mexico Construction Industries Division for a  
23 construction permit.

24           C. No Application Required

25           (1) The following shall not require submittal of an application for review

1       under this subsection:

2               (a)     the construction of new telecommunications facilities that  
3               conform to design parameters established from time to time by the land use  
4               department and are approved for use following a public hearing in the historic  
5               districts by the historic districts review board or outside the historic districts by  
6               the planning commission, provided that notice of the use of the approved design  
7               and of the proposed location is submitted to the city prior to commencement of  
8               the work and the city approves the proposed location of the facilities;

9               (b)     maintenance, repair and replacement of existing conforming and  
10              legally nonconforming telecommunications facilities to the extent that such work  
11              does not increase the physical dimensions or visual impact of such facilities, and  
12              routine maintenance or improvements to existing infrastructure, such as painting  
13              over graffiti on utility boxes or renewing screening elements used to minimize  
14              visual impact;

15              (c)     telecommunications facilities of any subdivision of government  
16              used exclusively for emergency services, including police, fire, and the operation  
17              of city utilities;

18              (d)     upgrades in capacity that do not otherwise modify the  
19              telecommunications facilities being upgraded;

20              (e)     erection and removal of temporary or emergency facilities;

21              (f)     removal of telecommunications facilities, or modifications that  
22              reduce their visual impact.

23              (2)     An exemption from land use review is not an exemption from the  
24              requirement for submittal of an application to the New Mexico Construction Industries  
25              Division for a construction permit.

1           D. Administrative Approval. Administrative approval as set forth in this paragraph  
2 is separate from and required prior to submittal to the New Mexico Construction Industries  
3 Division of an application for a construction permit.

4           (1) The following applications shall be subject to administrative approval:

5           (a) Except for facilities permitted under subsection Subsection 27-  
6 2.19(C)(1) above or requiring planning commission review under subsection 27-  
7 2.19(E) below, the construction of new telecommunications facilities in the  
8 public rights of way, including, without limitation, the addition of new facilities  
9 to existing facilities (collocations); and

10          (b) Applications for modifications to existing telecommunications  
11 facilities submitted pursuant to subsection 27-2.19(B)(1) above, to the extent that  
12 they do not substantially change the physical dimensions or visual impact of such  
13 facilities.

14          (c) For the purposes of this subsection 27-2.19(D)(1)(c) the city  
15 adopts the objective standards established under 47 C.F.R. § 1.40001 for what  
16 constitutes a substantial change to the physical dimensions of an existing  
17 telecommunications facility.

18           E. Planning Commission Review Required. Applications for telecommunications  
19 facilities in the public rights of way that are not otherwise permitted or administratively approved  
20 under subsections 27-2.19(A)(2), (C)(1) or (D), shall be heard and decided by the planning  
21 commission after early neighborhood notification and in accordance with standard Planning  
22 Commission procedures.

23           (1) In reviewing applications for telecommunications facilities in the public  
24 rights of way, the planning commission shall consider the visual impact of the proposed  
25 facilities on the natural and built environment and the community benefits derived from

1 access to stable and efficient telecommunications services.

2 (2) In approving an application, the planning commission shall determine  
3 that:

4 (a) The application is in compliance with this subsection;

5 (b) The application is necessary in order to close a proven significant  
6 gap in service coverage, either generally or of the applicant; and

7 (c) The applicant has demonstrated that no other less intrusive means  
8 or alternative to the approved facilities design and siting exists.

9 (3) The planning commission may not regulate the placement of  
10 telecommunications facilities on the basis of the environmental effects of radio frequency  
11 emissions where such telecommunications facilities comply with 47 C.F.R. 1.1310 et seq.

12 (4) The planning commission may place conditions upon its approval of the  
13 application, but the conditions shall not prohibit or have the effect of prohibiting the  
14 provision of the telecommunications services.

15 (5) Findings of fact and conclusions of law shall be prepared and approved.

16 (6) A decision of the planning commission is appealable as set forth in  
17 subsection 14-3.17 SFCC 1987.

18 (7) Any denial of an application or any approval of an application containing  
19 any conditions not accepted by the applicant shall:

20 (a) be in writing;

21 (b) cite to the administrative record; and

22 (c) not become final until approved by the same body at its next  
23 regularly scheduled meeting.

24 F. Notwithstanding anything in this section 27-2.19 to the contrary, no aboveground  
25 telecommunications facilities shall be approved in areas of the city where all other utilities have



1 been constructed underground, except where there are existing aboveground structures suitable  
2 for collocation, including, but not limited to, street lights, or in locations where the city  
3 determines that new street lights are needed and approves their installation for collocation.

4 G. General Requirements for Land Use Review.

5 ~~[A.]~~ (1) *Zoning Districts; Location.* Telecommunications facilities are  
6 permitted in all zoning districts~~[-except self-supporting lattice and guyed towers are prohibited in~~  
7 ~~the public rights of way in residential and historic districts].~~ However, to the maximum extent  
8 practicable, telecommunications networks shall be designed in such a manner as to locate  
9 facilities:

- 10 ~~[(+)]~~ (a) On existing structures;  
11 ~~[(2)]~~ (b) In nonresidential districts; and  
12 ~~[(3)]~~ (c) Along major arterials.

13 ~~[B.]~~ (2) *Maximum Height.* Telecommunications facilities ~~[located on~~  
14 ~~existing structures shall not exceed the height of the structure upon which the facility is~~  
15 ~~located. Telecommunications facilities located on new structures]~~ in the public rights of  
16 way shall not exceed the higher of:

17 (a) the maximum height for buildings permitted in the zoning  
18 district in which such facilities are located as set forth in Chapter 14 SFCC 1987;

19 or

20 (b) the height of other structures, including, but not limited to, street  
21 lights and telephone poles located in the public rights of way within a radius of  
22 150 feet of the location proposed for such facilities.

23 (c) To the extent that the height on any telecommunications facility  
24 has been increased pursuant to 47 C.F.R. § 1.40001, such increase shall not be  
25 included in calculating the maximum permitted height under this subsection 27-

1                   2.19(G).

2                   (3) Width. To the maximum extent possible, telecommunications towers  
3 shall have a slender profile, with antennas and related equipment, including, but not  
4 limited to, wires, sheathed within a single cylinder or with antennas pulled in as close as  
5 possible to the tower in order to present a uniform appearance.

6                   [~~C~~] (4) *Aesthetic Requirements.* Subject to applicable federal standards,  
7 the following criteria shall be met:

8                   (a) Telecommunications facilities shall be installed underground to  
9 the maximum extent feasible~~[including without limitation, in residential areas~~  
10 ~~where covenants regulate underground installations]~~. No aboveground  
11 telecommunications facilities shall be permitted in the public rights of way in  
12 areas of the city where all other utilities with facilities in the public rights of way  
13 are located underground in accordance with applicable law or otherwise by  
14 covenant, except where there are existing aboveground structures suitable for  
15 collocation, including, but not limited to, street lights.

16                   (b) [~~If above ground, the~~] Aboveground telecommunications  
17 facilities shall be **located**, designed, installed and maintained in such a manner as  
18 to minimize the visual impact upon the natural and built environment. Acceptable  
19 methods to minimize visual impact shall include, but [~~not be~~] are not limited to:  
20 concealment, screening, camouflaging, color, materials, texture, shape, size and  
21 location. To the maximum extent feasible wires and similar appurtenances shall  
22 be contained within the tower or encased in conduit painted with finish to match,  
23 in order to present a uniform appearance.

24                   (c) Consideration shall be given to minimize disruption to or  
25 alteration of the natural **or built** environment, **including, without limitation,**

1           landscaping in the public rights of way.

2                   (d)     No permanent lighting [is] shall be permitted unless the lighting  
3           is necessary for compliance with federal, state or local law. Permanent lighting  
4           shall not include equipment status indicating lights exceeding fifteen (15) watts  
5           of power.

6           ~~[(5)] Telecommunications facilities located within the historic districts shall~~  
7           ~~be reviewed by the historic design review board for compliance with this~~  
8           ~~subsection.]~~

9           ~~[D.]~~ (5)       *Archaeological Requirements.* The provider shall comply with  
10          subsection 14-5.3 SFCC 1987 regarding the city's archaeological review districts.

11          ~~[E.]~~ (6)       *Other Requirements.*

12                   ~~[(1)]~~ (a)       No signs are permitted unless the sign is required for  
13          safety reasons or for compliance with the federal, state or local law, or ~~[unless]~~ otherwise  
14          permitted by the city.

15                   (2) (b)       All aboveground telecommunications facilities shall be  
16          maintained so as to be orderly and attractive.

17                   ~~[(3)]~~ (c)       All telecommunications facilities shall be designed,  
18          constructed and installed in such a manner as to minimize noise to the maximum  
19          extent possible, but in no event shall it exceed the standards set forth in Section  
20          10-2 SFCC 1987.

21                   (4) (d)       All lockable telecommunications facilities shall be kept  
22          locked when not being actively serviced by the provider.

23                   ~~[(5)]~~ (e)       All nonlockable telecommunications facilities shall be  
24          kept closed when not being actively serviced by the provider.

25          ~~[F.]~~ (7)       *Applications to Land Use Department.* After approval of a

1 franchise as set forth in subsection 27-2.4 SFCC 1987 and prior to construction, any  
2 person proposing to construct telecommunications facilities in the city's public rights-of-  
3 way requiring land use review under this subsection 27-2.19 shall submit an application  
4 to the land use department for review [~~by the planning commission~~].

5 [(+)] (a) The application, in a form prescribed [~~and as necessary~~  
6 ~~updated~~] by the land use department, shall, without limitation:

7 [(+)] (i) Describe the applicant's proposed  
8 telecommunications services and facilities;

9 [(+)] (ii) Demonstrate compliance with this  
10 subsection;

11 [(+)] (iii) Include a map at a suitable scale of the project  
12 area indicating the proposed [~~route and specific~~] locations of  
13 telecommunications facilities [~~and specific information regarding a~~  
14 ~~facility's radio frequency emissions~~];

15 [(+)] (iv) If a significant gap in coverage is claimed by the  
16 applicant, the applicant shall [~~prove by clear and compelling~~] provide  
17 evidence demonstrating that the proposed facilities are necessary to close  
18 a defined and disclosed significant gap in service coverage, and that [~~its~~]  
19 the proposed facilities are the least intrusive means to close the proven  
20 significant gap;

21 [(+)] (v) To the extent that facilities are located in the  
22 Historic or Escarpment Overlay Districts or are not otherwise permitted  
23 or approved under this section 27-2.19, demonstrate that the applicant  
24 has investigated alternative siting and that no other practicable  
25 alternative exists; and

1                                   [(F)] (vi)       Demonstrate that the applicant has complied  
2                                   with the National Historic Preservation Act for the siting of proposed  
3                                   facilities that may affect sites that are listed or eligible for listing in the  
4                                   National Register of Historic Places.

5                                   [(2)] (b)       The application shall be in writing with the  
6                                   accompanying data in a format acceptable to the city that can be posted on the  
7                                   city's website in the same descriptive format as tendered in physical form (i.e., by  
8                                   use of PDF or other similar page reproduction software).

9                                   [(3)] (c)       The applicant may submit one (1) application showing  
10                                  multiple locations or, if a project is to be phased, phases, or may submit a new  
11                                  application for each location or successive phase.

12                                [G.] (8)       *Land Use Review Fee.* Each application~~[, which may include~~  
13                                ~~multiple phases as set forth in paragraph F(3) of this subsection,~~] shall be accompanied  
14                                by a nonrefundable fee ~~[of two thousand five hundred dollars (\$2,500) or the fee~~  
15                                established from time to time by the governing body ~~for development plan review,~~  
16                                ~~whichever is less]. In addition, the applicant shall reimburse the city for the reasonable~~  
17                                costs of any technical review by a qualified consultant, including, but not limited to, any  
18                                structural, electrical or radio frequency engineer.

19                                [H.] (9)       *Staff Review of Application.* The land use department and other  
20                                city staff as necessary shall review the application according to the standard procedures  
21                                established by the land use department for applications to the planning commission.

22                                [I.] (10)       *Community Information Availability.* Following verification by  
23                                the land use department that the application is complete, the application and related  
24                                submittal documents shall be made available to the public on the city's website. The  
25                                public may submit written comments to the land use department for its

1 consideration for a period of ten calendar days after the website posting on all  
2 applications that do not require planning commission approval. [and in the land use  
3 department at least fifteen (15) days prior to the planning commission hearing.

4 J. — ~~Public Notice of Public Hearing and Review by Planning Commission.~~

5 (1) — ~~The planning commission agenda shall be mailed and published~~  
6 ~~by the land use department as set forth in subsection 14-3-1H(1)(b) SFCC-1987.~~

7 (2) — ~~No less than fifteen (15) days prior to the public hearing, the~~  
8 ~~applicant shall give notice to the public as set forth below. The posters, mailings~~  
9 ~~and display advertisements shall state the nature of the application; the date, time~~  
10 ~~and place of the public hearing; and the availability for the public to review the~~  
11 ~~application as set forth above. In addition, the mailings and display advertisement~~  
12 ~~shall include a map of the project area indicating the proposed route and specific~~  
13 ~~locations of all proposed above ground facilities and equipment. The applicant~~  
14 ~~shall:~~

15 (a) — ~~Place in the public right of way in a location approved~~  
16 ~~by the city, or if the project is on private or public property immediately~~  
17 ~~adjacent to the public right of way in a location approved by the city,~~  
18 ~~one (1) poster obtained from the land use department at each major~~  
19 ~~intersection within the project area provided that there shall be no less~~  
20 ~~than one (1) poster every one-quarter (1/4) mile along the proposed~~  
21 ~~route.~~

22 (b) — ~~Mail by first class mail a notice in a format approved by~~  
23 ~~the land use department to all property owners and physical addresses~~  
24 ~~adjacent to the public rights of way where the telecommunications~~  
25 ~~services are to be located.~~

1 (c) ~~Publish a display advertisement in the local daily~~  
2 ~~newspaper of general circulation.~~

3 ~~K. Planning Commission Review.~~

4 (1) ~~The planning commission shall review the application for compliance~~  
5 ~~with this subsection and all relevant city codes.~~

6 (2) ~~In approving an application, the planning commission shall determine~~  
7 ~~that:~~

8 (a) ~~The application is in compliance with this subsection;~~

9 (b) ~~The application is necessary in order to close a proven~~  
10 ~~significant gap in service coverage, either generally or of the applicant; and~~

11 (c) ~~The applicant has demonstrated that no other less intrusive~~  
12 ~~means or alternative to the approved facilities siting exists.~~

13 (3) ~~The planning commission may not regulate the placement of~~  
14 ~~telecommunications facilities on the basis of the environmental effects of radio frequency~~  
15 ~~emissions where such telecommunications facilities comply with 47 C.F.R. 1.1310 et seq.~~

16 (4) ~~The planning commission may place conditions upon its approval of the~~  
17 ~~application but the conditions shall not prohibit or have the effect of prohibiting the~~  
18 ~~provision of the telecommunications services.~~

19 (5) ~~Findings of fact and conclusions of law shall be prepared and approved.~~

20 (6) ~~A decision of the planning commission is appealable as set forth in~~  
21 ~~subsection 14-3.17 SECC 1987.~~

22 (7) ~~Any denial of an application or any approval of an application containing~~  
23 ~~any conditions not accepted by the applicant shall:~~

24 (a) ~~Be in writing, and~~

25 (b) ~~Shall cite to the administrative record, and~~

1 (c) ~~Shall not become final until approved by the same body at its~~  
2 ~~next regularly scheduled meeting.]~~

3 ~~[L.]~~ H. *Modifications to Approved Plans.*

4 ~~[(1) Modifications to approved telecommunications facilities plans that~~  
5 ~~comply with the standards of this Section 27-2 and do not materially modify the approved~~  
6 ~~telecommunications plan may be approved by the land use director. An example of a~~  
7 ~~material modification to the approved telecommunications plan is a route for which~~  
8 ~~residents did not receive notice of the planning commission public hearing, or an increase~~  
9 ~~in effective radiated power or any proposed increase in frequency. Relocation of a single~~  
10 ~~antenna to an adjacent structure along the approved route is not a material modification.~~

11 ~~(2) The maintenance, repair, replacement in kind, or reinforcement of~~  
12 ~~existing telecommunications facilities, or the undergrounding of new telecommunications~~  
13 ~~facilities are not modifications to approved plans and shall not require approval of the~~  
14 ~~land use department or the planning commission.]~~

15 Modifications or amendments to approved telecommunications facilities or  
16 networks shall be reviewed as provided under Section 27-2.19 (A) – (D). Approvals of  
17 applications for telecommunications facilities shall expire after three (3) years if the  
18 applicant has not commenced and completed the work.

19 ~~[M.]~~ I. *Waivers.*

20 (1) The planning commission may grant a waiver of the requirements set  
21 forth in this subsection 27-2.19 SFCC 1987 provided that the commission finds ~~[based on~~  
22 ~~clear and convincing evidence provided by the applicant]~~ that the waiver:

23 (a) Is necessary to assure continuing service coverage by the  
24 applicant at the same level, or is necessary to close a significant gap in coverage  
25 ~~[proven by clear and convincing evidence];~~



- 1 (b) Is in the best interest of the community as a whole;  
2 (c) Will not jeopardize public safety and welfare;  
3 (d) Will better serve the purposes contained in Section 27-2 SFCC  
4 1987; and

5 (e) The applicant demonstrates that compliance with the  
6 requirement is not practicable due to physical or legal constraints [~~proven by the~~  
7 ~~applicant by clear and convincing evidence~~].

8 (2) The planning commission shall consider the following when granting a  
9 waiver:

10 (a) The [~~general appearance~~] visual impact of the [~~facility~~] of the  
11 proposed facilities on the natural and built environment;

12 (b) The nature of uses on adjacent and nearby properties;

13 (c) The physical surroundings and constraints; and

14 (d) Improved telecommunications services including service  
15 coverage and the potential for increasing the affordability of telecommunications  
16 services through competition.

17 [~~N. — Permits Required. In addition to the permits required set forth elsewhere in~~  
18 ~~Section 27-2 and city code, the following permits are required from the land use~~  
19 ~~department:~~

20 (1) ~~Secondary electrical permit at each antenna or other facility site requiring~~  
21 ~~secondary electrical service; and~~

22 (2) ~~Other permits as may be required.]~~

23 [~~Ø.~~] J. Monitoring Standards.

24 (1) At all times, a telecommunications provider shall ensure that its  
25 telecommunications facilities comply with the most current regulatory and operational

standards including but not limited to radio frequency emissions standards adopted by the FCC and antenna height standards adopted by the Federal Aviation Administration.

~~[(2) The telecommunications provider shall obtain and maintain the most current information from the FCC regarding allowable radio frequency emissions and all other applicable regulations and standards, and, at the following indicated times, shall file a report with the land use director indicating whether the provider is in compliance with such standards, advising the land use director of any regulatory changes that require modifications to the telecommunications facilities and advising the land use director of the measures taken by the provider to comply with such regulatory changes as follows:~~

~~(a) Prior to the commencement of the installation of the telecommunications facility;~~

~~(b) Within ten (10) days after initial activation of the telecommunications facility (the initial compliance report);~~

~~(c) Every year, on the anniversary of the submittal of the initial compliance report, and~~

~~(d) Upon any proposed increase of at least ten percent (10%) in the effective radiated power or any proposed change to frequency use, and~~

~~(e) Within ten (10) days after the activation of the proposed increase in effective radiated power or change in frequency use of the telecommunications facility.~~

~~(3) Both the initial and updated certifications shall be subject to review and approval by the city, and shall be public records.~~

~~(4) At the land use directors' sole discretion, a qualified independent radio frequency engineer, selected by and under contract to the city, may be retained to review~~

1        ~~said certifications for compliance with FCC regulations and for actual compliance with~~  
2        ~~the FCC regulations at the telecommunications facility.~~

3                ~~(5) — All costs associated with the city's review of these certifications shall be~~  
4        ~~the responsibility of the provider, which shall promptly reimburse the city for the cost of~~  
5        ~~review.]~~

6        [P.] K.        *Enforcement.* The land use director has the authority to interpret this  
7        subsection in accordance with the purpose of this section and shall administer and enforce the  
8        provisions of this subsection.

9                **Section 2. Subsection 27-2.20 SFCC 1987 (being Ord. #2010-14 § 15, as amended) is**  
10        **amended to read:**

11                **27-2.20 Compliance with Other Codes.**

12                Telecommunications networks or facilities granted approval under this section shall be  
13        constructed, installed, operated and maintained in accordance with all applicable federal, state  
14        and local codes, rules and regulations.

15                **Section 3.        [REPEAL]        Subsection 27-2.21 SFCC 1987 (being Ord. #2010-14**  
16        **§ 18, as amended) is repealed.**

17  
18        APPROVED AS TO FORM:

19  
20        \_\_\_\_\_  
21        KELLEY A. BRENNAN, CITY ATTORNEY  
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*M/Legislation/Bills 2017/Telecom Land Use Review Changes*