



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
JANUARY 9, 2019
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES:
 - a) Regular City Council Meeting – December 12, 2018
 - b) 2019 Legislative Priorities Meeting – December 20, 2018
9. PRESENTATIONS
 - a) St. Michael's High School Lady Horsemen Volleyball Team – 2018 New Mexico State District AAA Champions. (Councilor Rivera)
10. CONSENT CALENDAR
 - a) CONSIDERATION OF RESOLUTION NO. 2019-____. (Mayor Webber)
A Resolution Repealing Resolution No. 2018-1 Relating to the Open Meetings Act; and Adopting Annual Notice Requirements. (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)
 - b) State of the Santa Fe Municipal Court. (Virginia Vigil, Municipal Court Judge, vmvigil@santafenm.gov, 955-5110)
 - c) Request for Approval of Procurement in the Total Amount of \$263,758.45 Using State Price Agreement #60-000-15-00015 for Five Transit Vans for the Division of Senior Services; Creative Bus Sales, Inc. (Gino Rinaldi, Division Director, earinaldi@santafenm.gov, 955-4710)

RECEIVED AT THE CITY CLERK'S OFFICE

DATE: January 4, 2019

TIME: 3:30 PM



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- d) Request for Approval of State Price Agreement in the Amount of \$81,280.50 for the Purchase of Labor Costs to Build Police Department Vehicles; MHQ of New Mexico. (Robert Vasquez, Deputy Police Chief, rvasquez@ci.santa-fe.nm.us, 955-5163)
- e) Request for Approval of Department of Justice, Bureau of Justice Assistance FY18 Edward Byrne Memorial Justice Assistance Grant Program-Local Solicitation in the Total Amount of \$25,215 for Replacement Portable Breath Test Machines (PBT's), Small Equipment and Supplies to Maintain the Body Worn Camera System; United States Department of Justice. (Andrew Padilla, Police Chief, aapadilla@santafenm.gov, 955-5102)
- f) Request for Approval of Consolidated Project Agreement in the Total Amount of \$74,223 for Funding of End Driving While Impaired (ENDWI), Buckle Up/Click It or Ticket (BKLUP/CIOT), Selective Traffic Enforcement Program/100 Days and Nights of Summer (STEP/DNOS); New Mexico Department of Transportation. (Andrew Padilla, Police Chief, aapadilla@santafenm.gov, 955-5102)
 - 1) Request for Approval of Budget Amendment
- g) Request for Approval of GSA Contract in the Total Amount of \$158,409 for the FARO Laser Scanner System. (Robert Vasquez, Deputy Police Chief, rvasquez@ci.santa-fe.nm.us, 955-5163)
 - 1) Request for Approval of Budget Amendment
- h) Request for Approval of Professional Services Agreement in the Amount of \$115,331.96, Inclusive of NMGRT, for the Design Services Scope Required for the Proposed Structural and Building Envelope Rehabilitation to the Salvador Perez Recreation Building – CIP #503A; Using Cooperative Educational Services/WHPacific. (Jason Kluck, Facilities Division Project Administrator, jmkluck@santafenm.gov, 955-5937)
- i) Request for Approval of Professional Services Agreement in the Amount of \$216,117 for Kitchen Angels, Inc. to Act as Project Manager and Provide Related Services as Outlined in New Mexico Severance Tax Bond Project #18-C2574; Kitchen Angels, Inc. (David Chapman, Grant Administrator-Writer, dachapman@santafenm.gov, 955-6824)
 - 1) Request for Approval of Budget Amendment



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- j) Request for Approval of Amendment No. 3 to Professional Services Agreement in the Amount of \$19,787.88, Plus Applicable Gross Receipts Tax, to Provide Roadway Lighting Design Services and Right-of-Way Funding for Agua Fria and Cottonwood Intersection Safety Improvement Project; Souder Miller & Associates. (William Montoya, Engineer Assistant, wpmontoya@santafenm.gov, 955-6623)
 - 1) Request for Approval of Budget Amendment Resolution
- k) Request for Approval to Complete a Grant Application and to Execute a Grant Agreement for the FY 2018 Section 5307 Urbanized Area Apportionment in the Total Amount of \$1,577,518 for Transit Operating Expenses; Federal Transit Administration. (Keith Wilson, Transit Division Director of Administration and Grants, kpwilson@santafenm.gov, 955-2223)
 - 1) Request for Approval of Budget Amendment in the Amount of \$77,518
- l) Request for Approval to Complete a Grant Application and to Execute a Grant Agreement for the FY 2019 Congestion Mitigation Air Quality Funding in the Total Amount of \$71,773 for the Ridefinders Program; Federal Transit Administration. (Keith Wilson, Transit Division Director of Administration and Grants, kpwilson@santafenm.gov, 955-2223)
- m) Request for Approval of Professional Services Agreement in the Total Amount of \$72,000 for Subscription to Streaming Digital Video, Music, Audio Books and E-Books; Midwest Tape "Hoopla". (Jeffrey Donlan, Interim Library Director, jpdonlan@santafenm.gov, 955-6788)
- n) Request for Approval of Amendment No. 1 to Professional Services Agreement to Transfer Fiscal Rights, Privileges, Obligations in the Total Amount of \$82,000 from Santa Fe Community College Foundation to Santa Fe Community College for CYC Recommended Services; Santa Fe Community College Foundation/Santa Fe Community College. (Julie Sanchez, Youth and Family Services Program Manager, jsanchez@santafenm.gov, 955-6678)
- o) Request for Approval of Sole Source Procurement in the Total Amount of \$75,000 for Annual Membership Dues and Subscriptions; New Mexico Municipal League. (Mary Freitas, Executive Administrator, mmfreitas@santafenm.gov, 955-6590)



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- p) Request for Approval of Change Order in the Amount of \$7,714 for Construction Process Changes to the Department's Type 3 Wildland Fire Engine; Super Vacuum Manufacturing Co. Inc. (Jan Snyder, Assistant Fire Chief, jmsnyder@santafenm.gov, 955-3121)
- q) Request for Approval of Amendment No. 1 to CDBG Professional Services Agreements to Include HUD Required 2 CFR 200 Language (No Changes to Original Amounts are Required): (Jacqueline Beam, Office of Affordable Housing Planner, jybeam@santafenm.gov, 955-6574)
 - 1) SFPS Adelante
 - 2) Santa Fe Civic Housing Authority
 - 3) The Santa Fe Community Housing Trust
 - 4) Interfaith Shelter
 - 5) Presbyterian Medical Services
 - 6) Youth Shelters and Family Services
 - 7) Youth Shelters
- r) Request for Approval of Amendment No. 1 to CDBG Professional Services Agreement for the Soleras Station Project to Include HUD Required 2 CFR 200 Language and Approve Sole Source Procurement (No Changes to Original Amounts are Required); Santa Fe Community Housing Trust. (Jacqueline Beam, Office of Affordable Housing Planner, jybeam@santafenm.gov, 955-6574)
- s) Request for Approval of Award and Acceptance of FHWA Section 112 Federal Transportation Planning Funds in the Total Amount of \$212,483 for Santa Fe Metropolitan Planning Organization Program Operations; New Mexico Department of Transportation. (Erick J. Aune, Transportation Planner, ejaune@santafenm.gov, 955-6664)
 - 1) Request for Approval of Budget Amendment
- t) Request for Approval of Award and Acceptance of FTA Section 5303 Federal Transportation Planning Funds in the Amount of \$65,080 for Santa Fe Metropolitan Planning Organization Program Operations; New Mexico Department of Transportation. (Erick J. Aune, Transportation Planner, ejaune@santafenm.gov, 955-6664)
 - 1) Request for Approval of Budget Amendment Resolution



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- u) Request for Approval to Purchase Capital Equipment in the Amount of \$116,0808.52 for Fiscal Year 2018/2019 Utilizing a State Price Agreement - NM Lawn & Garden Equipment Contract; John Deere & Company/Dealer: Austin Turf & Tractor. (Jennifer Romero, MRC Manager, jcromero@santafenm.gov, 955-4465)
- v) Request for Approval of Award of Construction Agreement in an Amount Not to Exceed \$4,000,000, Exclusive of NMGRT, for On-Call Roadway and Trails Construction Services; GM Emulsion LLC., EMCO of Santa Fe LLC., and Allied 360 Construction LLC. (Michelle Martinez, Project Administrator, mrmartinez1@santafenm.gov, 955-6931)
- w) Request for Approval of Amendment No. 8 to Project Management and Fiscal Services Agreement, Item No. 07-1051 Between the Buckman Direct Diversion Board and the City of Santa Fe. (Nancy Long, BDDB Counsel, nancy@longkomer.com, 982-8405)
- x) Request for Approval of Amendment No. 4 to Professional Services Agreement for a Time Extension - Emergency Repair for Operations and Maintenance; Alpha Southwest. (Bill Huey, Water Division Engineer, bchuey@santafenm.gov, 955-4273)
- y) Request for Approval of Amendment No. 2 to Professional Services Agreement in the Amount of \$84,000 for FY 2018/2019, \$504,459.50 for FY 2019/2020 and \$504,459.50 for FY 2020/2021, Exclusive of NMGRT, for the Established Electronic Billing; Valli Information Systems DBA Postal Pros. (Kathy Valdez, Interim Utility Billing Division Director, ktvaldez@santafenm.gov, 955-4348 and Shannon Jones, Public Utilities Department Director, swjones@santafenm.gov, 955-4267)
- z) Request for Approval of Amendment No. 1 in the Amount of \$21,302 for Receipt of Additional Entitlement Funds - AIP Grant 3-35-0037-047-2017 for the Santa Fe Regional Airport. (Mark Baca, Airport Manager, md Baca@santafenm.gov, 955-2901)
 - 1) Request for Approval of Budget Amendment
- aa) Request for Approval of Contract in the Amount of \$307,264.08 for the Installation of Munters Furnaces at the Genoveva Chavez Community Center; CES/B&D Industries Inc. (J. Sam Burnett, Project Administrator, jsburnett@santafenm.gov, 955-5933)



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- bb) Request for Approval of Professional Services Agreement Using New Mexico State Price Agreement #50-000-15-00072 in the Total Amount of \$139,944.30, Inclusive of NMGR, for Construction Services at the City of Santa Fe Environmental Services Offices at 1142 Siler Road; FacilityBuild Inc. (Curt Temple, Projects Administrator, cetemple@santafenm.gov, 955-5935)
- cc) CONSIDERATION OF RESOLUTION NO. 2019-____. (Councilor Villarreal)
A Resolution in Support of Legislation in the 2019 Legislative Session to Authorize the Practice of Dental Therapy and Govern the Training and Licensure of Dental Therapists in New Mexico. (Jesse Guillen, Legislative Liaison, jbgullen@santafenm.gov, 955-6518)
- dd) CONSIDERATION OF RESOLUTION NO. 2019-____. (Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Vigil Coppler and Councilor Villarreal)
A Resolution Promoting the Preservation and Care of the College of Santa Fe Art Collection by Promoting an Active Loan Program to Ensure Public Access to and Educational Opportunities with Said Collection. (Robert Lambert, Community Gallery Manager, rdlambert@santafenm.gov, 955-6705)
- ee) CONSIDERATION OF RESOLUTION NO. 2019-____. (Councilor Harris)
A Resolution Readopting and Supplementing Fee Schedules for Plumbing and Mechanical /Gas Permits. (Elias Isaacson, Permit Intake Division Director, esisaacson@santafenm.gov, 955-6830)
- ff) CONSIDERATION OF RESOLUTION NO. 2019-____. (Mayor Webber, Councilor Ives and Councilor Rivera)
A Resolution Contributing Property and Resources to New Mexico Inter-Faith Housing Community Development Corporation for Development of the Santa Fe Arts+Creativity Center Low Income Housing Tax Credit Project Pursuant to the Affordable Housing Act. (Alexandra Ladd, Office of Affordable Housing Director, agladd@santafenm.gov, 955-6346)
- Fiscal Impact:** (\$1,524,600 Donated Land, \$400,500 Waived Fees, \$165,572 City Cost, \$262,572 Relocation Costs, \$400,000 Infrastructure Costs)



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- gg) CONSIDERATION OF RESOLUTION NO. 2019-____. (Councilor Lindell)
A Resolution Amending Resolution No. 2015-18, Regarding the Duties and Responsibilities of the Veterans' Advisory Board; Authorizing the Use of Existing Funds to Educate Residents and Promote the Option for a Voluntary Contribution to the New Mexico Veterans' State Cemetery Fund from a Tax Refund on Form NMPIT-1. (Julie Sanchez, Youth and Family Services Program Manager, jsanchez@santafenm.gov, 955-6678)
- hh) Request for Approval of Findings of Fact and Conclusions of Law for Case No. H-16-109: Appeal of the Historic Districts Review Board's Decision on March 13, 2018, Denying Exception Requests for Height and Public Visibility to Construct a Rooftop Elevator on the Property Located at 76 East San Francisco Street, Listed as Contributing in the Downtown and Eastside Historic District. (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)
11. Request for Approval of Budget Adjustment Request (BAR) in the Amount of \$145,000 and Increase of Purchase Order #18194427-000-OP in the Amount of \$80,729.08, from \$60,000.00 to \$140,729.08, for Water Damage Remediation Services at the Midtown Campus; Paul Davis Remediation, Inc. (J. Sam Burnett, Project Administrator, jsburnett@santafenm.gov, 955-5933.)
12. MATTERS FROM THE CITY MANAGER
13. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION:

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Subsection 10-15-1(H), Parts (5),(7), and (8):

- Discussion of Bargaining Strategy Between the Governing Body and the Police Officers Association;
 - Attorney-Client Privileged Discussion Regarding Litigation in Which the City of Santa Fe Is or May Become a Participant, Including But Not Limited to the County of Santa Clara's Local Government Amicus Brief in Support of San Francisco's Motion for Summary Judgement in *San Francisco v. Whitaker*, filed in the Northern District of California; and
 - Discussion of Disposal of Real Property.
- (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)



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14. Authorization to Join the County of Santa Clara's Local Government Amicus Brief in Support of San Francisco's Motion to Dismiss in *San Francisco v. Whitaker*. (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)
15. MATTERS FROM THE CITY CLERK
16. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL
- F. PETITIONS FROM THE FLOOR
- G. APPOINTMENTS
 - Santa Fe Film and Digital Media Commission
 - Santa Fe Regional Juvenile Justice Board
- H. PUBLIC HEARINGS:
 - 1) Request from La Fogata Grill, LLC, for a Restaurant Liquor License (Beer and Wine) with On-Premise Consumption Only, to be Located at La Fogata Grill, 112 W. San Francisco Street, Suite 101. (Yolanda Y. Vigil, City Clerk, yyvigil@santafenm.gov, 955-6521)
 - 2) Request from 1754 La Posada, LLC, for a Transfer of Ownership of Dispenser Liquor License No. 0893 From 1754 La Posada, LLC, dba La Posada de Santa Fe Resort and Spa to Ashford TRS Posada, LLC, dba La Posada de Santa Fe. This License Will Remain at 330 E. Palace Avenue. (Yolanda Y. Vigil, City Clerk, yyvigil@santafenm.gov, 955-6521)



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- 3) **CONSIDERTION OF BILL NO. 2018-24: ADOPTION OF ORDINANCE NO. 2019-__.** (Councilor Ives, Councilor Romero-Wirth, Councilor Lindell and Councilor Vigil Coppler)
An Ordinance Relating to the City of Santa Fe Economic Development Plan Ordinance, Article 11-11 SFCC 1987; Approving and Adopting a Local Economic Development Project Participation Agreement Between the City of Santa Fe and Marty's Meals, Inc. for Lease Payments for the Expansion of a New Headquarters and Manufacturing Facility, a Local Economic Development Project. (Rich Brown, Economic Development Associate, rbrown@santafenm.gov, 955-6625)
 - a) Request for Approval of Local Economic Development Project Participation Agreement Between the City of Santa Fe and Marty's Meals, Inc.
 - b) Request for Approval of Intergovernmental Agreement Between the New Mexico Economic Development Department and the City of Santa Fe, New Mexico for the Purpose of Facilitating the Disbursement of Funds for the Marty's Meals, Inc. Local Economic Development Project.
 - c) Request for Approval of Budget Amendment.
- 4) **Cases #H-17-098A and H-17-098B.** Appeal of the Historic Districts Review Board's Decisions on July 24, 2018 Designating the Status of Contributing to the Buildings and Associated Rock Yardwalls at 124 and 126 Camino Santiago and Denying the Request to Demolish 122 and 125 Camino Santiago and the Structures South of 126 Camino Santiago in the Plaza del Monte Subdivision. Appellant Plaza del Monte LLC Requests that the Governing Body Rescind the Structures' Status Designations, Designate their Status as Non-Contributing, Vacate the Denial of Demolition of the Three Non-Contributing Structures and Approve the Proposed Demolition of All Five Structures. (Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

I. ADJOURN

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



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

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

SUMMARY INDEX
SANTA FE CITY COUNCIL
January 9, 2019

ITEM	ACTION	PAGE
1. Call to Order	Convened at 5:00 p.m.	1
5. Roll Call	Quorum Present	1
6. Approval of Agenda	Approved as amended	1-2
7. Approval of Consent Calendar	Approved as amended	2
8. Approval of Minutes – Dec. 12, 2018	Approved as presented	2
Minutes of December 17, 2018	Approved as presented	3
9. Presentations:	St. Michael's Volleyball	3
10. Consent Calendar Listing	Listed	3-8
Consent Calendar Discussion		
g. Laser Scanner Contract	Approved	8-9
o. Municipal League Dues	Approved	9-10
cc. Dental Therapy Resolution	Approved	10-11
ff. Housing Tax Credit Project	Approved	11-14
hh. H-16-109 Appeal FF/CL	Approved	14-15
11. Midtown Campus Remediation BAR	Approved	15-16
12. Matters from the City Manager	Announcements	16
13. Matters from the City Attorney	Announcements	16
Executive Closed Session	6:07 to 7:18	16-17
Evening Session at 7:20	Quorum Present	18
14. San Francisco Amicus Brief	Approved	18-19
F. Petitions from the Floor	Petitions Made	19-20
G. Appointments	All Approved	20-21
H. Public Hearings		
1. La Fogata Grill Liquor License	Approved	21
2. La Posada Liquor License	Approved	21-22
3. Marty's Meals Ordinance	Approved	22-25
4. Appeals of HDRB Decisions		
a. Historic Status	Denied	25-46
b. Demolition	Approved – garage only	25-48
15. Matters from the City Clerk	None	48
16. Communications from the Governing Body	Communications made	48
I. Adjournment	Adjourned at 11:11 pm	48

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
January 9, 2019**

AFTERNOON SESSION

1. CALL TO ORDER AND ROLL CALL

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Alan Webber, on Wednesday, December 12, 2018, at approximately 5:00 p.m., in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

Mayor Alan Webber
Councilor Signe I. Lindell, Mayor Pro-Tem
Councilor Roman "Tiger" Abeyta
Councilor Mike Harris
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor JoAnne Vigil Coppler
Councilor Renee D. Villarreal

Members Excused

Councilor Peter N. Ives

Others Attending

Erik Litzenberg, City Manager
Erin McSherry, City Attorney
Yolanda Y. Vigil, City Clerk
Carl Boaz, Council Stenographer

6. APPROVAL OF AGENDA

Ms. Vigil said item 10 (e) has been removed; items 10 (a) and (g) have been revised and (ff) is corrected from the Finance Committee. They have exhibits that were

given to Councilors. She distributed a new document for 10(g) to the Councilors.

MOTION: Councilor Villarreal moved, seconded by Councilor Vigil Coppler, to approve the agenda as amended.

VOTE: The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Lindell, Rivera, Romero-Wirth, Vigil Coppler, and Villarreal voting in favor of the motion and none voting against.

7. APPROVAL OF CONSENT CALENDAR

Councilor Vigil Coppler pulled item 10(ff) for discussion.

Councilor Rivera pulled item 10(o) for discussion.

Councilor Lindell pulled item 10(g) for discussion.

Councilor Romero-Wirth pulled items 10(cc) and (hh) for discussion

MOTION: Councilor Abeyta moved, seconded by Councilor Vigil Coppler, to approve the Consent Agenda as amended with items 10 (g), (o) (cc), (ff) and (hh) removed for discussion.

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

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

Against: None.

8. APPROVAL OF MINUTES:

a. Regular City Council Meeting – December 12, 2018

MOTION: Councilor Rivera moved, seconded by Councilor Vigil Coppler, to approve the minutes of December 12, 2018 as presented.

VOTE: The motion was approved on a voice vote with Mayor Webber, Councilors Abeyta, Harris, Lindell, Rivera, Romero-Wirth, Vigil Coppler, and Villarreal voting in favor of the motion and none voting

against.

b. 2019 Legislative Priorities Meeting – December 20, 2018

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Rivera, to approve the minutes of December 20, 2018 as presented.

VOTE: The motion was approved on a voice vote with Mayor Webber, Councilors Abeyta, Harris, Lindell, Rivera, Romero-Wirth, Vigil Coppler, and Villarreal voting in favor of the motion and none voting against.

9. PRESENTATIONS

a. St. Michael's High School Lady Horsemen Volleyball Team – 2018 New Mexico State District AAA Champions.

Councilor Rivera made the presentation. He invited the coach and players forward. He read the whereas statements from the proclamation: a record of 23-2, first time in St. Michael's history in the tournament of champions, 3.98 average GPA, 8 players earning over 4.0 GPA. He thanked all the parents for supporting their children and the City is proud of them too.

Mayor Webber proclaimed Friday February 1 as St Michael's Lady Horsemen Volleyball Team Day.

Coach Sandoval shared her thanks for this honor and said she couldn't be prouder of these student athletes and their GPA scores.

10. CONSENT CALENDAR

- a. CONSIDERATION OF RESOLUTION NO. 2019-01. (Mayor Webber)
A Resolution Repealing Resolution No. 2018-1 Relating to the Open Meetings Act; and Adopting Annual Notice Requirements. (Erin K. McSherry, City Attorney_ekmcsherry@santafenm.gov, 955-6512)

A copy of the proposed amendment to this Resolution by Mayor Webber is incorporated here with to these minutes as Exhibit 1.

- b. State of the Santa Fe Municipal Court. (Virginia Vigil, Municipal Court

Judge, vmvigil@santafenm.gov, 955-5110)

- c. Request for Approval of Procurement in the Total Amount of \$263,758.45 Using State Price Agreement #60-000-15-00015 for Five Transit Vans for the Division of Senior Services; Creative Bus Sales, Inc. (Gino Rinaldi, Division Director, earinaldi@santafenm.gov, 955-4710)
- d. Request for Approval of State Price Agreement in the Amount of \$81,280.50 for the Purchase of Labor Costs to Build Police Department Vehicles; MHQ of New Mexico. (Robert Vasquez, Deputy Police Chief, rvasquez@ci.santa-fe.nm.us, 955-5163)
- e. Request for Approval of Department of Justice, Bureau of Justice Assistance FY18 Edward Byrne Memorial Justice Assistance Grant Program-Local Solicitation in the Total Amount of \$25,215 for Replacement Portable Breath Test Machines (PBT's), Small Equipment and Supplies to Maintain the Body Worn Camera System; United States Department of Justice. (Andrew Padilla, Police Chief, aapadilla@santafenm.gov, 955-5102)
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- g. Pulled by Councilor Lindell for discussion.
- h. Request for Approval of Professional Services Agreement in the Amount of \$115,331.96, Inclusive of NMGRT, for the Design Services Scope Required for the Proposed Structural and Building Envelope Rehabilitation to the Salvador Perez Recreation Building – CIP #503A; Using Cooperative Educational Services/WHPacific. (Jason Kluck, Facilities Division Project Administrator, jmkluck@santafenm.gov, 955-5937)
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Provide Related Services as Outlined in New Mexico Severance Tax Bond Project #18-C2574; Kitchen Angels, Inc. (David Chapman, Grant Administrator-Writer, dachapman@santafenm.gov, 955-6824)

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 - n) Request for Approval of Amendment No. 1 to Professional Services Agreement to Transfer Fiscal Rights, Privileges, Obligations in the Total Amount of \$82,000 from Santa Fe Community College Foundation to Santa Fe Community College for CYC Recommended Services; Santa Fe Community College Foundation/Santa Fe Community College. (Julie Sanchez, Youth and Family Services Program Manager, jjsanchez@santafenm.gov, 955-6678)

 - o) Pulled by Councilor Rivera for discussion.

 - p) Request for Approval of Change Order in the Amount of \$7,714 for Construction Process Changes to the Department's Type 3 Wildland Fire

Engine; Super Vacuum Manufacturing Co. Inc. (Jan Snyder, Assistant Fire Chief, jmsnyder@santafenm.gov, 955-3121)

- q) Request for Approval of Amendment No. 1 to CDBG Professional Services Agreements to Include HUD Required 2 CFR 200 Language (No Changes to Original Amounts are Required): (Jacqueline Beam, Office of Affordable Housing Planner, jybeam@santafenm.gov, 955-6574)
 - 1) SFPS Adelante
 - 2) Santa Fe Civic Housing Authority
 - 3) The Santa Fe Community Housing Trust
 - 4) Interfaith Shelter
 - 5) Presbyterian Medical Services
 - 6) Youth Shelters and Family Services
 - 7) Youth Shelters

- r) Request for Approval of Amendment No. 1 to CDBG Professional Services Agreement for the Soleras Station Project to Include HUD Required 2 CFR 200 Language and Approve Sole Source Procurement (No Changes to Original Amounts are Required); Santa Fe Community Housing Trust. (Jacqueline Beam, Office of Affordable Housing Planner, jybeam@santafenm.gov, 955-6574)

- s) Request for Approval of Award and Acceptance of FHWA Section 112 Federal Transportation Planning Funds in the Total Amount of \$212,483 for Santa Fe Metropolitan Planning Organization Program Operations; New Mexico Department of Transportation. (Erick J. Aune, Transportation Planner, ejaune@santafenm.gov, 955-6664)
 - 1) Request for Approval of Budget Amendment

- t) Request for Approval of Award and Acceptance of FTA Section 5303 Federal Transportation Planning Funds in the Amount of \$65,080 for Santa Fe Metropolitan Planning Organization Program Operations; New Mexico Department of Transportation. (Erick J. Aune, Transportation Planner, ejaune@santafenm.gov, 955-6664)
 - 1) Request for Approval of Budget Amendment Resolution

- u) Request for Approval to Purchase Capital Equipment in the Amount of \$116,0808.52 for Fiscal Year 2018/2019 Utilizing a State Price Agreement - NM Lawn & Garden Equipment Contract; John Deere & Company/Dealer: Austin Turf & Tractor. (Jennifer Romero, MRC Manager, jcromero@santafenm.gov, 955-4465)

- v) Request for Approval of Award of Construction Agreement in an Amount Not to Exceed \$4,000,000, Exclusive of NMGR, for On-Call Roadway and Trails Construction Services; GM Emulsion LLC., EMCO of Santa Fe LLC., and Allied 360 Construction LLC. (Michelle Martinez, Project Administrator, mrmartinez1@santafenm.gov, 955-6931)
- w) Request for Approval of Amendment No. 8 to Project Management and Fiscal Services Agreement, Item No. 07-1051 Between the Buckman Direct Diversion Board and the City of Santa Fe. (Nancy Long, BDDB Counsel, nancy@longkomer.com, 982-8405)
- x) Request for Approval of Amendment No. 4 to Professional Services Agreement for a Time Extension - Emergency Repair for Operations and Maintenance; Alpha Southwest. (Bill Huey, Water Division Engineer, bchuey@santafenm.gov, 955-4273)
- y) Request for Approval of Amendment No. 2 to Professional Services Agreement in the Amount of \$84,000 for FY 2018/2019, \$504,459.50 for FY 2019/2020 and \$504,459.50 for FY 2020/2021, Exclusive of NMGR, for the Established Electronic Billing; Valli Information Systems DBA Postal Pros. (Kathy Valdez, Interim Utility Billing Division Director, ktvaldez@santafenm.gov, 955-4348 and Shannon Jones, Public Utilities Department Director, swjones@santafenm.gov, 955-4267)
- z) Request for Approval of Amendment No. 1 in the Amount of \$21,302 for Receipt of Additional Entitlement Funds - AIP Grant 3-35-0037-047-2017 for the Santa Fe Regional Airport. (Mark Baca, Airport Manager, mdbaca@santafenm.gov, 955-2901)
 - 1) Request for Approval of Budget Amendment
- aa) Request for Approval of Contract in the Amount of \$307,264.08 for the Installation of Munters Furnaces at the Genoveva Chávez Community Center; CES/B&D Industries Inc. (J. Sam Burnett, Project Administrator, jsburnett@santafenm.gov, 955-5933)
- bb) Request for Approval of Professional Services Agreement Using New

Mexico State Price Agreement #50-000-15-00072 in the Total Amount of \$139,944.30, Inclusive of NMGR, for Construction Services at the City of Santa Fe Environmental Services Offices at 1142 Siler Road; FacilityBuild Inc. (Curt Temple, Projects Administrator, cetemple@santafenm.gov, 955-5935)

- cc) Councilor Romero-Wirth pulled this item for discussion.
- dd) CONSIDERATION OF RESOLUTION NO. 2019-03. (Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Vigil Coppler and Councilor Villarreal)
A Resolution Promoting the Preservation and Care of the College of Santa Fe Art Collection by Promoting an Active Loan Program to Ensure Public Access to and Educational Opportunities with Said Collection. (Robert Lambert, Community Gallery Manager, rdlambert@santafenm.gov, 9556705)
- ee) CONSIDERATION OF RESOLUTION NO. 2019-04. (Councilor Harris)
A Resolution Readopting and Supplementing Fee Schedules for Plumbing and Mechanical /Gas Permits. (Elias Isaacson, Permit Intake Division Director, esisaacson@santafenm.gov, 955-6830)
- ff) Councilor Vigil Coppler pulled this item for discussion.
- gg) CONSIDERATION OF RESOLUTION NO. 2019-06. (Councilor Lindell)
A Resolution Amending Resolution No. 2015-18, Regarding the Duties and Responsibilities of the Veterans' Advisory Board; Authorizing the Use of Existing Funds to Educate Residents and Promote the Option for a Voluntary Contribution to the New Mexico Veterans' State Cemetery Fund from a Tax Refund on Form NMPIT-1. (Julie Sanchez, Youth and Family Services Program Manager, jjsanchez@santafenm.gov, 955-6678)
- hh) This item was pulled for discussion by Councilor Romero-Wirth.

CONSENT AGENDA DISCUSSION

- g. Request for Approval of GSA Contract in the Total Amount of \$158,409 for the FARO Laser Scanner System. (Robert Vasquez, Deputy Police

Chief, rivasquez@ci.santa-fe.nm.us, 955-5163)

1. Request for Approval of Budget Amendment

This item was pulled by Councilor Lindell.

A copy of revised 10(g) is incorporated herewith to these minutes as Exhibit 2.

Councilor Lindell had not seen the paperwork. She asked Chief Padilla, on page 5 of the most recent handout, if the City should go back to FARO. On the original quote for this particular item, it was \$15,719 with a \$5,000+ discount. Now it is \$15,700 with only a \$785 discount. She thought we should talk with them.

Chief Padilla agreed with her and explained that the original discount was because we were purchasing two and now, we are just purchasing one.

Councilor Lindell said she would be inclined to give them another phone call. She thought it was onerous on their part and the lower discount did not seem right.

Chief Padilla agreed to give it another shot.

Councilor Abeyta thanked Chief Padilla for the time and effort to research it to get by with one, as recommended by the Finance Committee.

Mayor Webber said what was impressive to him was the data assessment on the memo. "You are professionalizing and upgrading the police work in the City and please track the use of the equipment. If ultimately there is another request, we want to know that as well.

MOTION: Councilor Lindell moved, seconded by Councilor Abeyta, to approve Consent Agenda Item 10 (g).

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

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

Against: None.

- o) Request for Approval of Sole Source Procurement in the Total Amount of \$75,000 for Annual Membership Dues and Subscriptions; New Mexico Municipal League. (Mary Freitas, Executive Administrator, mmfreitas@santafenm.gov, 955-6590)

Councilor Rivera pulled it this item. He questioned what the City is getting for what is being spent for the membership dues at the New Mexico Municipal League. He asked if Santa Fe got anything from the Municipal League.

Mr. Bill Fulginetti, with the Municipal League, was present and responded.

Mr. Fulginetti asked if his question was the value of the dues to the City and what the League offers. He said there is currently an issue before us with TRD, who is charging the City 3% to collect your GRT taxes and changed it from 3.25% and we think it is unconstitutional and have an attorney who said it was. We have not filed a lawsuit for it. That will save Santa Fe \$450,000 per year. It was a successful negotiation. We are now drafting a bill to get the \$110 million from over last ten years. We are prepared to go to court on that.

Santa Fe is part of lawsuit on distribution of GRT to you. We contend the TRD has been doing it illegally. There is a procedure to follow and they are not. We have filed a case in court and Santa Fe is one of them. Santa Fe would get 4-5m in back taxes they should not have taken. So that has proven financial liability and the League stands behind you in that.

Councilor Rivera said that was extremely helpful. He assumed that attorney fees come from the league and they don't ask for more.

Mr. Fulginetti agreed. The Municipal League has already paid for the research. They negotiated with a law firm on a contingency fee basis, but the cost might have to be shared for depositions and court reporting but not for the legal fees.

Councilor Rivera noted that several of our Councilors serve on League committees.

Mr. Litzenberg added that there are also some Staff who serve on various committees.

MOTION: Councilor Rivera moved, seconded by Councilor Harris, to approve the \$75,000 procurement of dues and subscriptions with the New Mexico Municipal League.

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

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

Against: None.

- cc) **CONSIDERATION OF RESOLUTION NO. 2019-02.** (Councilor Villarreal)
A Resolution in Support of Legislation in the 2019 Legislative Session to Authorize the Practice of Dental Therapy and Govern the Training and Licensure of Dental Therapists in New Mexico. (Jesse Guillen, Legislative Liaison, jbg Guillen@santafenm.gov, 955-6518)

Councilor Romero-Wirth commented on her vote at Finance. She voted no and will again tonight. She was not opposed to creating dental therapists and was well aware of a dental crisis in the state and commended those who are addressing it. The reason is a scope of practice issue which the legislators deal with a lot. She saw them quite a bit earlier in her life. She hoped the dentists and advocates will continue to negotiate for a satisfactory bill. She didn't want to take sides. It needs to be worked out because dentists go to dental school and want to make sure they can be adequately trained without a medical degree. She would leave it open for whatever action Council wants to take.

MOTION: Councilor Villarreal moved, seconded by Councilor Lindell, to approve Item 10 (cc).

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

For: Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Lindell, Councilor Rivera, and Councilor Villarreal.

Against: Councilor Romero-Wirth and Councilor Vigil Coppler.

Councilor Lindell asked to be a cosponsor.

- ff) **CONSIDERATION OF RESOLUTION NO. 2019-05.** (Mayor Webber, Councilor Ives and Councilor Rivera)
A Resolution Contributing Property and Resources to New Mexico Interfaith Housing Community Development Corporation for Development of the Santa Fe Arts+Creativity Center Low Income Housing Tax Credit Project Pursuant to the Affordable Housing Act. (Alexandra Ladd, Office of Affordable Housing Director, agladd@santafenm.gov, 955-6346)
Fiscal Impact: (\$1,524,600 Donated Land, \$400,500 Waived Fees, \$165,572 City Cost, \$262,572 Relocation Costs, \$400,000 Infrastructure Costs)

Mayor Webber said this has new documentation and Mayor Webber asked Director Ladd to walk the Council through it.

Director Ladd also had an updated fact sheet which Mr. Werwath handed out. She said the newest outcome value is estimated at \$2.2 million. It was adjusted in a new FIR and was in the packet. It uses 50 for the number of units instead of 60. That was the only change. An issue considered at the Public Works Committee was

relocation costs absorbed by the developer was included in the subtotal for that line item. It was not in the overall FIR total and was mistakenly put in to correct the math. The Committee discussed whether the appraisal information should be in there.

A copy of the hand out is incorporated into these minutes as Exhibit 3.

Councilor Vigil Coppler appreciated the new information. For those not on Public Works Committee, this was pulled for various questions the Committee had; mainly because it has changed substantially from the Public Works Committee review. She was unclear how the public gets this updated information. She supports this project but wanted to convey that they changed the 60 units to 50 units and changed the appraisal amount. As originally presented, it relied on that appraisal and suddenly found out a more recent appraisal was less. It is hard to believe the land really had such a drastic decrease. She asked for an explanation.

Director Ladd said the number in the FIR was prepared two years ago and based on commercial land values at that time. Matt O'Reilly came up with a per square foot value that was used for the valuation. The appraisal is good for two years. When the professional appraiser came, he considered ground contamination and the power line. The \$1.5 million was not based on an actual appraisal. Also, in terms of the concern about public information. All this does is to certify the City supports the project so NMFA knows the commitment is real. And a whole public participation process will include lots of public input. We knew 50 units would be affordable for sure and she is waiting for a formula from NMFA. All of it will have some restrictions.

Councilor Vigil Coppler was intrigued with that change of units and had hoped there might be more. The reason she supports this project is that she has always supported donating city land for affordable housing for nurses, police, fire fighters, etc. She looked forward to having this as something for making headway in Affordable Housing. Some people were shocked that we are donating land. But we need to do it and continue other efforts also. She was grateful Director Ladd was working on it and truly doing what we need to do.

Councilor Lindell asked for submittal and determination dates.

Director Ladd said the application deadline is February 1 and notice of award is usually in May.

Councilor Rivera commented that when Siler Road was still in District 3, he was approached with this concept by Mr. Werwath and it is great. It fits in with Meow Wolf and the other development in the Rufina area. He was glad she was going forward with it again and it probably needs additional funding. Thank you, Director Ladd.

Mayor Webber asked what the vacancy rate is for rentals.

Director Ladd said it is under 3%.

Mayor Webber asked how many units the City is short.

Director Ladd said at least 2,400 are lacking.

Mayor Webber said there is a misconception about who could be a renter in this project. "Do I have to be a bonafide artist?"

Director Ladd explained the restriction is on income, which cannot exceed a certain amount.

Mayor Webber concluded there is no occupation restriction.

Director Ladd agreed. This is to provide economic pathways for people in many occupations.

Mayor Webber said this is our 2019 shot at tax credits and there are no other applicants in the pipeline.

Director Ladd agreed.

Councilor Harris said he has been concerned about it for quite a while. We all are probably familiar with "scope creep" and how it affects projects. It has been increasing over the years for the amount the City is asked to contribute. If we are short 2,400 units, there is no way the City could provide enough money to cover that. We need to look at other tools and other sources. A lot of work has been undertaken and there needs to be more work undertaken. He didn't think the numbers were sustainable and the land has a better use than what is proposed so he would oppose it. We need to solve the bigger problem and not look to the City for this type of money.

Councilor Villarreal appreciated the changes in numbers. We discussed the money for road improvements and clarified it is not coming from the Road Fund.

Director Ladd clarified that the Affordable Housing Act covers the cost of buildings and infrastructure as well as assistance to individuals. She did not identify trust funds specifically in case there are other state funds available.

Councilor Villarreal asked what statewide funds would be considered.

Director Ladd replied that NMFA has a lot of different projects.

Councilor Villarreal thought, although the City is putting in a substantial amount through donations, there have been quite a few private partners. She did not want names but asked if there is a substantial amount.

Mr. Werwath pointed out that they have faced extreme cost increases for developments. The big increase this year is the solar offset and there are \$300,000 in donations and we are going to add \$400,000 and includes that since last year. Materials are getting very expensive and we need to figure out how to pay for it.

Councilor Villarreal mentioned the eligibility factor and asked for an explanation on how that is regulated once the structures are built, to make sure the residents actually fall within that income bracket.

Director Ladd said it is monitored annually by NMFA. The owner and property manager has to be able to audit that and certify eligibility.

Councilor Villarreal said currently, it has a negative value to the City with brown filed there. The third time is a charm and it also requires a hefty application and no guarantee that it will happen. I really would like to see more units, but it is a challenging area. She wished Staff the best of luck.

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Rivera, to approve the Consent Agenda Item 10 (cc) as revised.

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

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

Against: Councilor Harris.

hh) Request for Approval of Findings of Fact and Conclusions of Law for Case No. H-16-109: Appeal of the Historic Districts Review Board's Decision on March 13, 2018, Denying Exception Requests for Height and Public Visibility to Construct a Rooftop Elevator on the Property Located at 76 East San Francisco Street, Listed as Contributing in the Downtown and Eastside Historic District. (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)

Councilor Romero-Wirth pulled this item. She asked the City Attorney, "If I voted no at the hearing. What are we doing here tonight so I can understand what I should do tonight?"

Ms. McSherry said this is basically on Findings of Fact and Conclusions of Law whether they reflect what happened at the prior meeting. These FF/CLs reflect what the Council took action on. An affirmative vote would support their accuracy.

Councilor Villarreal was not present at that meeting and she asked what to do.

Ms. McSherry said if she felt the FF/CL reflects what is in the minutes, she could vote, or she could abstain.

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Rivera, to approve the Findings of Fact and Conclusions of Law for Case #H-16-109 as presented.

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

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

Against: None.

Abstained: Councilor Harris and Councilor Villarreal.

11. Request for Approval of Budget Adjustment Request (BAR) in the Amount of \$145,000 and Increase of Purchase Order #18194427-000-OP in the Amount of \$80,729.08, from \$60,000.00 to \$140,729.08, for Water Damage Remediation Services at the Midtown Campus; Paul Davis Remediation, Inc. (J. Sam Burnett, Project Administrator, jsburnett@santafenm.gov, 955-5933.)

Mr. Burnett said he was present for two related reasons. The first is approval of the BAR to move money into repair and maintenance of buildings at the Midtown campus and approval for the existing purchase order from \$50,000 to \$124,000. The reason is that the original PO was issued on an emergency basis at the limit of \$50,000 and to complete the work, this increase is needed.

Councilor Harris asked what kind of understanding we have now on the financial recovery from insurance.

Mr. Burnett said as represented to him by Risk Management, the insurance company typically covers damage that is over \$100,000. In this case, the insurance company has recognized all buildings as one copay of \$100,000.

Councilor Harris asked about the loss from Staff time.

Mr. Burnett said he could not answer that. He listed the companies working on reconstruction and it all should be included in the claim. That was his understanding.

Councilor Harris reported that on Thursday, last week, he was on the site. He walked into Marion Hall and saw the damage is significant and widespread and it seemed like there were a number of causes - roof systems, mechanical failure, etc. He asked if Staff know what happened.

Mr. Burnett said, "Technically, yes. Would you like me to run through that?"

Councilor Harris said it was not necessary. But there was concern about prior work in the mechanical room. In any of the buildings, he asked if there is reason to look at prior work.

Mr. Burnett said the earlier repair was in boiler room with a broken pipe. That incident is separate and not related to this one and did not contribute to these events. Regarding other contractors, he could speak with his Division Director but probably not. B&D has an understanding of it, and he has asked them for a list of necessary improvements to prevent future events of this nature.

Councilor Harris commented that it will be an ongoing discussion and action for the future and the need to look at the other buildings. It is disappointing that it happened in one of the nicest buildings on the campus. It was pretty well trashed.

MOTION: Councilor Lindell moved, seconded by Councilor Vigil Coppler, to approve the Budget Adjustment Request for remediation services at the Midtown Campus.

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

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

Against: None.

12. MATERS FROM THE CITY MANAGER

Mr. Litzenberg had three matters. He announced the Legislative Session starts on Tuesday at noon. Secondly, the Finance Division and Staff have been hard at work on preparation of the mid-year budget report. Thirdly, He thanked the Streets crews for a stunning job on roads and streets from the series of storms, ice, wind, etc. Thanks to all of them for addressing things as they emerged.

13. MATTERS FROM THE CITY ATTORNEY

Ms. McSherry recommended three reasons for the executive session which were the Collective Bargaining Agreement, Litigation of the County Santa Clara, and the sale of real property.

EXECUTIVE SESSION:

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Subsection 10-15-1(H), Parts (5), (7), and (8):

- i. Discussion of Bargaining Strategy Between the Governing Body and the Police Officers Association;
- ii. Attorney-Client Privileged Discussion Regarding Litigation in Which the City of Santa Fe Is or May Become a Participant, Including But Not Limited to the County of Santa Clara's Local Government Amicus Brief in Support of San Francisco's Motion for Summary Judgement in *San Francisco v. Whitaker*, filed in the Northern District of California; and
- iii. Discussion of Disposal of Real Property.
(Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)

MOTION: Councilor Rivera moved, seconded by Councilor Vigil Coppler to go into executive session for those reasons.

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

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

Against: None.

The Governing Body went into executive session at approximately 6:07 pm.

The executive session ended at approximately 7:18 p.m.

- 14. Authorization to Join the County of Santa Clara's Local Government Amicus Brief in Support of San Francisco's Motion to dismiss in San Francisco v. Whitaker** (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955- 6512)

This item was considered later in the evening session.

15. MATTERS FROM THE CITY CLERK

This item was considered later in the evening session.

16. COMMUNICATIONS FROM THE GOVERNING BODY

This item was considered later in the evening session.

EVENING SESSION 7:00 P.M.

A-E. CALL TO ORDER AND ROLL CALL

The regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called back to order for the evening session by Mayor Alan Webber, on Wednesday, January 9, 2019, at approximately 7:20 p.m., in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe.

Present at the meeting were:

Members Present

Mayor Alan Webber
Councilor Signe I. Lindell, Mayor Pro-Tem
Councilor Roman "Tiger" Abeyta
Councilor Mike Harris
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor JoAnne Vigil Coppler
Councilor Renee D. Villarreal

Members Excused

Councilor Peter N. Ives

Others Attending

Erik Litzenberg, City Manager
Erin McSherry, City Attorney
Yolanda Y. Vigil, City Clerk
Carl Boaz, Council Stenographer

RETURN TO OPEN SESSION

MOTION: Councilor Rivera moved, seconded by Councilor Lindell that the Governing Body come out of executive session, stating for the record that the discussion in executive session was limited to the matters noted on the agenda.

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

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

Against: None.

14. Authorization to Join the County of Santa Clara's Local Government Amicus Brief in Support of San Francisco's Motion to dismiss in San Francisco v. Whitaker (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)

Ms. McSherry requested the authorization from the Governing Body to join in this amicus brief in support of San Francisco's motion to dismiss in San Francisco v. Whitaker.

MOTION: Councilor Rivera moved, seconded by Councilor ?? To approve the request.

VOTE: The motion was approved on a roll call vote as follows:

15. MATTERS FROM THE CITY CLERK

This item was considered in the evening session.

16. COMMUNICATIONS FROM THE GOVERNING BODY

This item was considered in the evening session.

F. PETITIONS FROM THE FLOOR

Mayor Webber allotted two minutes per person.

Patricia E. Werton, 812 Calle Saragoza, said she was here to talk about a really underserved community - specifically, people living with disabling conditions, the homeless, and how the community is aggressive against them. I moved here about a year ago, and quite frankly, I'm afraid to participate. Drivers want you dead. I am not being dramatic. I've actually detailed a long report here of what I mean. And it's not even a welcoming place. If you don't look disabled you are scrutinized even further, in ways that are impossible. But basically, I cannot take a walk in this town without fear. People are sleeping outside, people trying to walk dogs. And drivers don't pay attention.

I'm impressed with Mayor's Webber's letter, but I can't consider this a long-term home because I have to apologize to exist. We should be open to other ways of living. Even legally in a crosswalk, I'm a piece of vermin because drivers' rights are above my own. I submit this report to the Mayor.

Stefanie Beninato suggested a police officer be stationed at Alameda and Don Gaspar to arrest people running the stop sign and send a signal. Her petition was for recreation. She was disappointed that Salvador Perez is closed for mold and no money given to them. We now have two out of three pools closed. The Ft Marcy pool is there is capable of being open. No one worked for three weeks during Christmas, but it is right there and that indicates a lack of quality of life when they are not maintained with regular hours.

Secondly, I can't have trust when you were lied to by LUD in a document September 18, that the City was the adjacent owner to 2008 Don Cubero. I made an IPRA request for the interpretation and asked more than once. There is no such interpretation. So, when we are blatantly lied to and the City Attorney doesn't seem to care that the law is violated.

There were no other petitions from the Floor.

G. APPOINTMENTS

- **Santa Fe Film and Digital Media Commission**

Mayor Webber appointed Mr. Tim Wright to the Santa Fe Film and Digital Media Commission.

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Lindell, to approve the appointment of Tim Wright to the Santa Fe Film and Digital Media Commission.

VOTE: The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Lindell, Rivera, Romero-Wirth, and Vigil Coppler voting in favor of the motion and none voting against.

- **Santa Fe Regional Juvenile Justice Board.**

Mayor Webber appointed Emma Jean Abeyta to the Santa Fe Regional Juvenile Justice Board.

MOTION: Councilor Abeyta moved, seconded by Councilor Vigil Coppler, to approve the appointment of Emma Jean Abeyta to the Santa Fe Regional Juvenile Justice Board.

VOTE: The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Lindell, Rivera, Romero-Wirth, and Vigil Coppler voting in favor of the motion and none voting against.

H. PUBLIC HEARINGS:

- 1) Request from La Fogata Grill, LLC, for a Restaurant Liquor License (Beer and Wine) with On-Premise Consumption Only, to be Located at La Fogata Grill, 112 W. San Francisco Street, Suite 101. (Yolanda Y. Vigil, City Clerk, yyvigil@santafenm.gov, 955-6521)

Ms. Vigil read the request and noted the location is not within 300 feet of church or school and the item in the packet addresses noise and traffic. The license holder must comply with all city ordinances.

Public hearing:

Ms. Stefanie Beninato, P. O. Box 1601, was sworn. She said, "I am not opposed to the license and believe Councilor Villarreal told me there was some kind of map where liquor licenses are located. Do you all look at that to see how many are already there? Or do you care? Can we have as many as people want, or can we see that is enough. I understand a lot of people drink responsibly but some don't. So, we have regulations on the southside, and I am not sure why they are not applied city-wide.

There were no other speakers from the public regarding this case and the public hearing was closed.

MOTION: Councilor Lindell moved, seconded by Councilor Vigil Coppler to approve the restaurant liquor license for La Fogata Grill.

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

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

Against: None.

- 2) Request from 1754 La Posada, LLC, for a Transfer of Ownership of

Dispenser Liquor License No. 0893 From 1754 La Posada, LLC, dba La Posada de Santa Fe Resort and Spa to Ashford TRS Posada, LLC, dba La Posada de Santa Fe. This License Will Remain at 330 E. Palace Avenue. (Yolanda Y. Vigil, City Clerk, yyvigil@santafenm.gov, 955-6521

Ms. Vigil described the transfer of license and noted it is within 300 feet of the Church of the Holy Faith, but they already had a license, so a waiver is not required. The Staff report in packet on traffic and she recommended they comply with all ordinances of the City.

Public Hearing

There were no speakers from the public regarding this case and the public hearing was closed.

MOTION: Councilor Lindell moved, seconded by Councilor Vigil Coppler to approve the license transfer for La Posada.

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

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

Against: None

- 3) CONSIDERATION OF BILL NO. 2018-24: ADOPTION OF ORDINANCE NO. 2019-01. (Councilor Ives, Councilor Romero-Wirth, Councilor Lindell and Councilor Vigil Coppler) An Ordinance Relating to the City of Santa Fe Economic Development Plan Ordinance, Article 11-11 SFCC 1987; Approving and Adopting a Local Economic Development Project Participation Agreement Between the City of Santa Fe and Marty's Meals, Inc. for Lease Payments for the Expansion of a New Headquarters and Manufacturing Facility, a Local Economic Development Project. (Rich Brown, Economic Development Associate, rdbrown@santafenm.gov, 955-6625)

Mr. Rich Brown spoke to the proposed ordinance. He said there were many people present who are excited about it. He identified several of them, including the owner of Marty's Meals. It is a woman-owned pet food business with a strong emphasis on triple bottom line. It is projected to grow from \$150,000 in revenue to \$450,000.

The State of Colorado gave interest in supporting the enterprise, but we wanted it to remain here. If the ordinance is approved, it will provide for a participation agreement between the City and Marty's Meals for lease payments for the expansion of

new headquarters and manufacturing facility to be located here. And the annual abatement will be accomplished with local jobs. The City is the fiscal agent and it would begin in March with a lead investment of 100,000 but will spend only \$18,750 at first. It is a ten-year agreement providing 11 new jobs of fiscal impact will generate \$7.4 million. This project aligns with our Economic Development Department's goals for consumer package goods. He asked for approval.

Public Hearing:

The first speaker said Marty's Meals was located in her district. The legislature wants to grow responsible home grown, so I stand in support and ask for your support.

The CEO for Assistance Dogs of the Southwest said Marty's Meals has been a huge supporter of our endeavor. She not only provides a great product but is a generous sponsor of the chile festival and supported clients who don't have capacity to feed a high-quality diet. I strongly support her business. She is an amazing entrepreneurial person and support she gives to our community.

Bonnie McGowan and a customer of Marty's Meals for six and a half years, said she has three Australian shepherds, and one is 15 years old. "I tried every dog food to deal with her digestion and someone suggested raw and was not aware of Sandy working out of her kitchen and a group of us had ordered bulk two months of food at a time to ship to Santa Fe and then had to go to the house, load up our cars and freezers and it was not a fun process. Fortunately for all of us, Sandy opened her retail location. Not only is it more convenient, the quality of the food cannot be compared with any others. All of my dogs are healthy and don't have health issues. I tell people they can save a lot in vet bills. I save about \$150 per month with no huge vet bills. My dogs are healthy and I'm grateful for her and to have this business in our community."

Kimberly Freeman, a veterinarian in Santa Fe, providing western and eastern medicine, said, "From a veterinarian perspective. My coworkers want an option for local sourced, tested nutritional food. I can't emphasize enough that she local sources her meat and vegetables local sourced and hand made. It is not commercial and thanks for hearing this case. She could have traveled to Colorado and not stayed here in Santa Fe because of an opportunity elsewhere but she wants to stay, and we want her here. I do consult with her and she wants that input from customers and community. It is unlike other businesses.

I am another customer of Marty's Meals and for those who have healthy lives from Sandy and Marty's meals. She helps in different situations. As a human, what I eat makes a world of difference. And the same for my dog. It is one of the finest things we have here.

Kathryn Kittymark said she has been feeding her dogs with Marty's Meals since they started and always there is someone there to advise when there is a problem. I've

seen skin problems and others healed with Marty's Meals. It is a pleasure to be able to talk about Marty's Meals and to see my dogs healthy and shiny.

Sandy Bossman said, "I am humbled and appreciate the support and the testimonials. Three years ago, when we opened the Boulder store, Mr. Trujillo asked me to see him and he told me about the Needa Grant. We received support from the City and the State and from SBA. We are not here because we have done it alone. We have received incredible support. We had an opportunity in Colorado and the NIDA grant helped us stay here.

We have been able to start people at \$14/hour. I could go on and on. I appreciate your support and thanks to everybody.

Ms. Beninato said, I hear the major support for this business. I don't have a dog and couldn't afford it. I'm glad people can spend that kind of money on their dogs. How long does the business get supported through grants when they are already doing well? Do the grants have a provision for maintaining a business in New Mexico after the grant is issued? That would be a good provision to have so they don't go someplace else.

There were no other speakers from the public regarding this case and the public hearing portion was closed.

- a) Request for Approval of Local Economic Development Project Participation Agreement Between the City of Santa Fe and Marty's Meals, Inc.

MOTION: Councilor Lindell moved, seconded by Councilor Villarreal and Councilor Romero-Wirth, to approve Ordinance 2019-01 and the participation agreement between the City and Marty's Meals, Inc.

Councilor Lindell thanked everyone who came to the lectern and to Economic Development Staff and Mr. Mitchell from the State. "I went to the grand opening and these are the kinds of projects that are very heartening and for those who want this business to stay in this town but here also, locally sourced food. It is a sizable story and I want to encourage everyone to stop by that business and see how it operates. It is amazing and thankful for staff. They include people I know who have participated in a very meaningful way. I encourage people to go to the store.

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

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

Against: None.

- b) Request for Approval of Intergovernmental Agreement Between the New Mexico Economic Development Department and the City of Santa Fe, New Mexico for the Purpose of Facilitating the Disbursement of Funds for the Marty's Meals, Inc. Local Economic Development Project.

MOTION: Councilor Lindell moved, seconded by Councilor Romero-Wirth, to approve the intergovernmental agreement between the New Mexico Economic Development Department and the City of Santa Fe to facilitate the disbursement of funds for Marty's Meals, Inc.

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

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

Against: None.

- c) Request for Approval of Budget Amendment.

MOTION: Councilor Lindell moved, seconded by Councilor Vigil Coppler, to approve the request for the budget amendment.

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

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

Against: None.

Mayor Webber congratulated them.

- 4) **Cases #H-17-098A and H-17-098B.** Appeal of the Historic Districts Review Board's Decisions on July 24, 2018 Designating the Status of Contributing to the Buildings and Associated Rock Yard walls at 124 and 126 Camino Santiago and Denying the Request to Demolish 122 and 125 Camino Santiago and the Structures South of 126 Camino Santiago in the Plaza del Monte Subdivision. Appellant Plaza del Monte LLC Requests that the Governing Body Rescind the Structures' Status Designations, Designate their Status as Non-Contributing, Vacate the Denial of Demolition of the Three Non-Contributing Structures and Approve the

Proposed Demolition of All Five Structures. (Sally Paez, Assistant City Attorney_sapaez@santafenm.gov, 955-6501)

Ms. Vigil described the appeal for the Council.

Mayor Webber reminded people that this is quasi-judicial process. He briefly addressed the process and asked for any communications to disclose up front as ex parte.

Councilor Vigil Coppler said she received a letter or email and paid no attention to it.

Councilor Lindell said she received an email but did nothing that would lead to any reason to recuse.

Mayor Webber went through the rest of the procedures for the appeal. He gave an option to the Council to either deliberate in public or in executive session and then entertain motions. The first motion would be for status of the structures and the second for demolition of the structures.

Ms. Theresa Gheen presented her staff report. She distributed three exhibits for the record. The first was the 2014 Findings of Fact and an attorney's memo on the adjacent property for consideration as Exhibit H and Exhibit I and a decision tree as Exhibit J. *Copies are labeled Exhibit 4, 5, and 6 for the minutes.*

She thanked Mayor Webber for the reminder about the quasi-judicial matters. This means the Councilors are here in a role similar to that of a judge, to apply the evidence of fact to the law and to City Code to reach your conclusion. You should independently weigh the evidence before you and agree or disagree with the Historic Board's decision. Your decision is not to respond to your constituent's concerns but to apply the facts to the Code. So, it is limited, and our consideration should not go beyond the limits of the Code.

Two main claims are made: 1) whether 124 and 126 Camino Santiago meet the definition of contributing status. The HDRB found they did meet that definition and applied the four elements, each of which must be met for the definition of Contributing to be found for both structures, either structure, or neither.

Second, is whether the three noncontributing structures can be allowed to be demolished. There are three factors in the Code in which one or more factors may outweigh the other factors. Not every factor needs to be met for that. It is more discretionary.

That is in the decision tree for your reference.

She referred to page 39 of the Council packet.

Councilor Romero-Wirth asked her to talk about the standard of review.

Ms. Gheen said the appeal is a de novo hearing, so you can weigh the evidence and reach an independent conclusion. Because the appellant has made claims about the procedure, the Governing Body should make an independent decision after considering the evidence.

Councilor Romero-Wirth asked about substantial evidence.

Ms. Gheen said with de novo, the issue is not whether the Board erred on the demolition decision. In the decision you should have substantial evidence to back up your decision that you find persuasive.

Councilor Romero-Wirth said that is with regard to the second issue. She just wanted, before hearing the evidence, to understand the rules of the game.

Ms. McSherry added that there might be other questions that come up and we want to be equitable to them.

Ms. Gheen provided a brief background. She said the structures here were first subsidized housing for Presbyterian ministers, missionaries, pastors and others as far back as 1950. The neighborhood was designed in that piecemeal process and were operated for them until 1988.

In 2015, the next owner, Presbyterian Medical Services sold the development to the appellant - a private company. The Appellant own all 27 structures in the neighborhood.

The final action being appealed is the November 26, 2018 status decision on five structures, one of which is a garage. She pointed them out on the site plan. Two were found to be Contributing and have a unique style of architecture that tells a story of their history with Ghost Ranch and Plaza del Monte and found that 122 and 126 met the definition of contributing with the four elements.

They were 20th century architecture that reflect the time and place and particular features that contribute to the district as stated in the memo. They found particular façades as primary.

The most contested questions were question 2 and 3 in the decision tree. Reasonable people can differ. And on the adjacent property was an office building that was Contributing, and the Governing Body found against the HDRB decision in that case.

At issue is whether the three structures that are non-contributing could be found to be an essential part of the street block and whether they could be salvaged and whether it was sufficient that 2 was not met and denied demolition. You can come up with your own decision. At the end of my memo I suggested two motions - one on status and one on demolition.

Director Johnson said there are two important elements for the question of status. The first is of style. That is a key factor in whether it is contributing. As Ms. Gheen referred to, in the previous case in 2014, when proposed for demotion, whether 20th Century Modern architecture is Santa Fe style or not. In our code we have documentation of old Santa Fe style and specific elements for recent Santa Fe style: achieves harmony of similarity of materials, proportion, color, and general detail.

Just because a house is of 20th century Modern style doesn't mean it does not reflect Santa Fe style. it is an open-ended question that needs to be answered.

Under the demolition standards are three criteria: whether the structure is of historical importance, whether the structure is an essential part of street section or block front, and whether the street section or block front will be reestablished by a new structure, as well as the state of repairs and structural stability of the structure.

Those are the essential criteria and the basis upon which HDRB made its decision. Regarding the essential part of a street section, Camino Santiago is a private street but still is a street section and the H Board found those buildings were essential and without them, that character would be lost. They are part of an essential part of the urban design of the City scape.

She found a significant quote in *Civil Engineering & Environmental Technology Journal* which she quoted from. To help with the decision, are these structures part of a unique street section and if yes, would the uniqueness be lost with demolition?

Statement of Appellant.

Mr. Karl Sommer was sworn and said they would try to keep their presentation within for 15 minutes but asked for discretion. He said, "I'm here on behalf of Plaza Del Monte, with Jim Long, from Heritage Hotels; Larry Luján and Wayne Lloyd the consulting architect. Mr. David Rasch is going to say a few words and I will speak at the end.

We are here to ask you to weigh in on a de novo basis for demolition of these five structures.

Mr. Wayne Lloyd was sworn and said he would try to cover things quickly. "I usually meet with City staff on any project to find out what issues are there so I can properly notify my client about the hurdles to overcome. I met with David Rasch in August or September 2017. At that time, the Ghost Ranch Administration building had

been demolished and that was built in 1963 or 1964. We looked at all the 26 structures and the one that was contributing, and it was not any of the five we asked to demolish. Based on the Ghost Ranch not being important in terms of Mid-20th Century Modern architecture and other rationale, David told us we needed to do a little more research. But that research consisted of whether the five buildings had been altered since they were on the cusp of fifty years. At least two of them were altered. We needed as much research as we could find. We went through that process and photographed the numerous changes to those units and photographs were included in our application that was submitted in October 2017. The first of four hearings was in November 2017. I go into the process because I've been doing this for a while and prevented appeals in most of those prior projects. This is my third appeal. We presented the information and City Staff wrote recommendations that the five were not contributing. One was but it was a distance from these five units and the Staff recommended approval of our demolition request.

The Board decided in that first meeting that rather than address these five buildings, they wanted an independent study done on all of the 26 units there, even though he was not requesting demolition for all of them. That took some time to find a qualified consultant approved by City and State and hired John Murphy. At great expense, there is a 230-page report on every unit in the complex. Mr. Murphy felt there were five contributing units instead of one and were scattered throughout the complex. None of those five were any of the five we requested for demolition and he said none of the rest were contributing. Clearly, two were non-historic, since they were less than 50 years old. The other two were on the cusp. We had records that they were under construction in 1968. Approximately 50 years old. There was lots of discussion about how close to 50 years they should be. The same architect doing the Ghost Ranch building did these units in Mid-century architecture and deemed, in that case, to not be important.

Mr. Murphy's report took time not only to find the correct person, John Murphy, but also for him to do this work and the HCPI reports for each unit, at great expense to the owners. After he finished, we got back on the agenda in April 2018. At that April meeting, which took quite some time, the Board after lots of discussion, decided 122 and 126 were contributing. The garage, 125, and 126 were not contributing. In May, the Board requested a special meeting. At that April meeting, there was a first ever executive session done, that in all of my presentations to the Historic Board were never in executive session. Neither the staff or public were allowed to hear what was said and after that, we were denied. In the April meeting, we had three as non-contributing and two as contributing.

In May, the Board rescinded their earlier decisions. Then on June 26, 2018 we were back before the Board. Keep in mind, the Board looks for expertise. We had the expertise of David Rasch, City Staff. And then the Board asked us to hire an independent expert. Staff said they are not contributing, and the report says they are not contributing. And with my years of experience, I say they are not contributing. No

other evidence to the contrary was in any of the reports. In the June 26 final meeting, while they listed two units noncontributing and the others contributing, they disallowed any demolition of any of the five units. I'll close by saying I think the City of Santa Fe has an excellent preservation ordinance. I think in this case; the preservation ordinance was not used to preserve but to limit growth in this area. And when used incorrectly it makes the ordinance meaningless.

Mr. David Rasch was sworn. He said, "I was very proud to be your historic preservation officer for 15 years. I loved my time here and learned so much while here. I became an expert on Santa Fe style and found my experience here to be life changing. During those 15 years I can't imagine how many cases I had heard. I'm the first one to say how important historic preservation is to this town. It is so important that National Geographic Magazine gave Santa Fe the world recognition as the best sense of place. I'm now the Spanish Market Director but still an expert on Santa Fe style.

It was clear to me that the 50-year rule - the approximately 50-year rule - is ambiguous. And in thinking of historic structures, we don't think about Mid-century as the best architecture. The ordinance preserves the best of each decade. I'm not sure these are the best in town to preserve. I thought on contributing status was appropriate and other structures in the compound do deserve. The State architect did not believe. On page 8 or 14 - that legal minds could differ, she said what the Chair of H Board said, and he quoted it. So, I'm here tonight to say take Historic Preservation seriously - a contributing status means you cannot alter the building. These five do not rise to that level and we ask you to grant the appeal.

Mr. Jim Long - a native New Mexican, as is Mr. Luján. I am the founder of Heritage Hotels and we preserve properties. We employ over 3,000 New Mexicans and create E. D. opportunity and add to the tax base.

We also have a long history of investing in communities and make the assets special in how we approach those projects. Plaza del Monte was part of residential development of Ghost Ranch property. There were two parcels and we acquired one in 2013 and the other was by El Castillo Retirement Center. Their plans are in place and we are trying to get ours in place.

The HDRB denied El Castillo and their appeal was overturned by the Council. At the time, those properties designed by the same architect, only earlier. El Castillo is now investing tens of millions in their property. So, it is good economic development for the city and means more jobs.

Both of the properties suffered from extreme neglect. When we acquired them, they were not in good condition and functionally obsolete. We've continued to maintain and improve them. There are 27 structures and we want to remove five and still maintain a very unique community that has been there for a long time with positive improvements. The great concern we have is that the H Board set forth requirements

that we followed as we were asked to do. We hired an esteemed architect in Wayne Lloyd who has been before HDRB 90 times and demonstrated his expertise many times and of David Rasch who has served for 15 years and both presented strong argument that these five are not contributing. We had to evaluate all 27 which was beyond the process, but we faithfully did that and the HDRB refused to accept the Staff or consultant's recommendation. They ignored the factual evidence presented in those public hearings.

The other thing is mid-century architecture. It has not been adopted in the code, so it is not applicable. The comments about streetscape don't apply to private street and private street development. So, they are misstated and manufactured evidence.

These structures are noncontributing.

Mayor Webber said he could question staff if he wished.

Mr. Sommer said he had no questions for staff.

Public Comment:

Nancy Armbruster was sworn, and said she is 85 years old; lived here 50 years and the last ten in Plaza del Monte- I'm here for how these threatened aimed for destruction be considered noncontributing. two years ago, seniors were living in them and had to move out in May and find new homes. The rest of us wonder what will happen if they are allowed to be demolished as homes of our friends are destroyed - As a voice for my community to clarify three points as you make an informed decision - 1 - the Board has already spent extensive time reviewing the major arguments by the developer. The status reflects the Board's highly detailed attention to each piece of information as well as attention to the public comments offered at that time. These decisions reflect the history of an important part of Santa Fe development and the integrity of historical Santa Fe.

Point 2: Santa Fe lacks affordable housing and seniors lived in Plaza del Monte with affordable rent and nowt the developer wants to demolish. What would replace the buildings the developer wants to demolish? I can't help but think it would be much higher cost and could be sold to richer people. What would happen to those living there?

Plaza del Monte was a senior living facility and dismantling began with the purchase of the present owner and some leases were not renewed. Some residents had to leave, and others left out of fear the rest would be demolished Some still live there most are in their 80's or 90's. Should we threaten those seniors by beginning the demolition?

The Presbyterian Church, which has been here since early 19th century established it as retirement place for ministers, and other religious leaders who helped serve NM. It knew many of them. When the wind blows the trees and flowers they planted., I hear their words to put it to its former good use. It is still holy ground. I thank my daughter Ellen Armbruster who grew up here to understand this delicate situation. Thank you for your attention.

Mr. Randy Burlingham - 2541 Camino Alfredo, was sworn. He said, "I'd like this Governing Board to put people before property in this case. Any demolition will affect the quality of life for these residents. My mother is a long-term resident. The history should be respected at all costs. The residents who live there should have their quality of life there. I don't want to see one hammer hit a wall there.

Ms. Stefanie Beninato was sworn and said, "As a person who attended those meetings and as a qualified historian. I have a lot of concerns how this was presented to you, including David Rasch and Jim Long. You were told that as contributing, no changes could be made to the building. That is not true. With exceptions, the primary façades can have things done to them. It is also irrelevant how many jobs are presented. This is about design and whether the Board applied the criteria properly to the status. If the Heritage Hotels followed all ordinances, they wouldn't have sandwich signs on the sidewalk which they have done all the time at Hotel St. Francis and the one on Washington Street.

It would be a mistake for you to go to executive closed session. It was highly unusual that HDRB did so. These are the experts you appointed to make these decisions Staff are only supposed to do technical review and not recommending anything. If you read case law, case after case says it is the Board's expertise not staff's or consultants. The Board found Mr. Murphy's evaluation to be generic.

I heard those comments why the Board dismissed that report.

As for mid-century, Ms. Rios has a great bias against anything from the 1950's. That doesn't mean they are not worthy of preservation. Whether we like that style or not, these were built during that time when the historic ordinance was in effect and considered harmonious and compatible with the style. If we want to wipe out a whole era, that is a mistake on our part and if only the best example, we would only have a few examples of each. It is whether they contribute to the streetscape, of age and certain elements of style.

Ms. Evelyn Pryor was sworn and had comments of the developers. The five structures are ten homes and one garage. And regarding why HDRB asked for a survey of all the properties - from my listening, of the sessions, they got it that this was a community in toto- not just structures unrelated to each other. So, I didn't think it was extreme to ask for the HCPI. I ask you to uphold the HDRB decision the developer asks you to overturn. You could ask any residents who live next to impending demolition and

they worry about being next as their community is destroyed. I lived there and was displaced from 125 Camino Santiago unit 4. The structure was sound and built in a very functional way. There is probably less maintenance now. It was managed by PMS until they sold it to Plaza del Monte LLC. I thought it was in 2015. I lived there 11 years when I had to pack up and leave my friends and understand they have been vacant since then. That puzzles me in a city that cries for rentals. It was a rental community for moderate income seniors, and they are vulnerable who continue to live there. Please think about that with your decision and encourage you as you decide, to think about the resolution passed by council in July 2015 - to guide council decisions re housing. 5 pillars to guide council are affordability, quality, sustainability and health, equity, stability and fairness, and community control. Thanks.

Mr. John Eddy was sworn. He said, "I followed this request at HDRB. What you are not seeing, and I know you cannot base your decision on emotion. All of the hearings filled the gallery with people who testified to this community. You have just a shadow of that tonight. I'm here to follow up for them. As represented to you, mid-century modern is invalid and not something to think about it. It is on the cusp and they are becoming 50 years old. They were designed by Phillippe Register, an esteemed architect in Santa Fe. It was a holistic community as was testified to. I take issue with and would like you to discuss is the idea of streetscape. It has been represented to you that is not public roads. I'd like to see you clarify that for the purpose of this case. When it comes to demolition in a community as holistic as Plaza del Monte. When you do that, it erases streetscape and when you erase that character, you need to be aware of what replaces it. And the HDRB considers that. There has never been a development plan on this property for what will replace it if they are demolished. That will have an impact on any remaining residents if they are allowed to stay. Please consider those carefully.

There were no speakers from the public regarding this case and the public hearing was closed.

Mr. Sommer asked to be given his five minutes as a closing statement that might spark a question. If that is appropriate. We would just like to rebut, if that is okay.

Mayor Webber stuck with questions from councilors.

Councilor Vigil Coppler had no questions at the moment.

Councilor Abeyta asked regarding the regulation of the 50-year rule, what year that was adopted.

Councilor Romero-Wirth responded that it has been in the ordinance since its inception approximately 1956.

Mr. Rasch said it was in 1957.

Mr. Sommer disagreed. The 50-year rule was part of the Preservation Ordinance which was adopted in the 1990s.

Councilor Rivera asked Ms. Gheen about a statement in her memo on page 2 at the top where it said the Board has not yet considered the demolition of 124 and 126 Camino Santiago.

Ms. Gheen said the appeal is of the status action and demolition and does not have a decision on contributing structures. When they were designated contributing, the Board determined an exception was required for demolition and an exception to the Code. That requires a separate application. So, the demolition was not before the Board. So, because of that, there is nothing to appeal on those two structures.

Councilor Rivera asked in what year Ghost Ranch allowed to be demolished.

Ms. Gheen said it was in January 2013. It is in Exhibits H and I. FF/CL was 2014.

Mr. Sommer added that the big building was built in 63.

Ms. McSherry asked that question be directed to the Board Chair, Mayor Webber.

Ms. Gheen responded with a range of dates. The latest for the buildings was 49 years old.

Councilor Villarreal thanked the people who came this time. The packet is a little unfair because we are not experts in historic preservation but must decide. Personally, this is hard because I don't get to vote on the human elements and disheartening to hear how little control these residents have in this private property. Can you remind me Ms. Gheen about what changed from April to June that shifted the designation for the two structures. There was a photo? If you had to define the breaking to contributing other than photos of the property and all board members were there?

Ms. Gheen agreed - all 7 members were present in April. The decision was 4-3 on one and required the chair to vote on that tie. And for 126, there was a February 1968 DOT photo but was not available for the June hearing. There was a lot of discussion about the age of the buildings and the majority of Board members with 5 present. She felt that was important. And a different composition. That was a consideration. I also think the Board at that time, had a lot of information in front of them. Some of it was conflicting and the record demonstrates the difficulty in making that decision. I can't read minds. That is the best I can do.

Councilor Villarreal said it is not a factor in our decision. But the code requirements makes it unfair. It is hard to determine contributing or noncontributing and

for demolition, I have no idea what the developer has planned for the future on this property. I would like to know the plans for this area.

Mr. Long said it is zoned R-17 which means we could build 105 units at maximum, but we are not trying to do that. We want to keep 22 dwelling units in place. How we utilize the site will be best determined by our planners and architect, but objective is to make it best for the community. Our long-term ownership is to have a quality environment for residents, and it is not profitability but preservation and quality.

Councilor Villarreal said it is hard to hear that some think it would be short-term rental I'm frustrated that it affects our decision on demolition and for people who want to stay there, and we cannot control affordability in that area. I'll yield for now I would like to know what the Staff's idea of streetscape is. It depends on who you talk with about it. What does it mean and the difference between private and public?

Councilor Romero-Wirth said the code is not helpful. It makes reference to both public and private and the definition of ROW includes the term. What we traditionally think of is dedicated to the City but also talks about private use of ROW, primarily about utilities.

In the same definition, having not been involved at all, I don't second guess staff decisions and history of those interpretations, what was referenced in the attorney memo is what applies in certain conditions. A 300' radius was used in this case.

Ms. McSherry recommended looking at the factors and the term "streetscape" does not appear in the Code.

Mayor Webber asked if the Attorney was referencing street section or block front. Ms. McSherry said she was certain

Councilor Lindell shared the same frustrations and went back to what we said earlier about putting sizable amounts of money to get sixty apartments and we are talking about demolishing of 122 and 125 which is what? On page 40 of our packet.

On page 39, it shows that 125 had 4 units.

Councilor Lindell was grateful for the information. So, it is five.

In issue 2 re demolition, we are looking at a standard and four factors which don't all have to be met. Councilor Villarreal focused on whether a unique street section or block front will be reestablished. And we don't know. It could be a vacant lot for a long time or a parking lot I read through some of the minutes and the H Board was troubled by that also. Serving on H Board is very hard duty and those volunteers give a lot of time as evidenced by this packet which is almost a thousand pages. And the number of meetings this was discussed at. And the executive session which I understand is within

the Board's purview to do that.

The Board worked very, very hard on this and it certainly was not a quick decision on their part. I'll yield the floor on that. When I think of what we have gone through in the past couple of years for demolishing five and the hope was to demolish ten.

Councilor Harris thanked Ms. Gheen for Exhibit H. On the Findings of Fact for the appeal for Ghost Ranch property, under FF #11 - to reestablish the character with similar materials. Either to Ms. Gheen or Ms. McSherry, he asked if this type of decision does establish precedent for an adjoining property constructed in the same time period – the early sixties. The Governing Body used a Finding of Fact for that. Does that have precedent for what we are doing tonight? There are some binding and some non-binding. If you differ from the decision, it would be helpful to say what factors were involved. It would help if these Findings were different from the prior Findings. But you are not bound by a previous interpretation of the Code and that would be helpful to document. There are differences in the two cases, and we can document that. There are more similarities than differences, but that decision is not binding on us. So, it is a factor but not an element.

Ms. McSherry was not sure she would use the same terminology but agreed.

Councilor Harris noted that part of what was considered before was mid-century and is not found specifically in our code but on page 7 of the packet, it talks about intent of contributing status. When it talks about mid-century, it is not specific, and each example is a record of its time and place and Mr. Rasch spoke to that as well. They felt, going back to Findings, the things mentioned on character of mid-century elements in the style. It didn't seem to carry much weight in the prior case. So, I am thinking about place, time and use. A suggestion by the appellant, not an outright accusation, that perhaps the length of time could be seen by some as getting to the 50-year mark and I don't know if that is part of it. In those terms. A significant request was agreed to by the applicant to evaluate the whole property and they did that with identification of five contributing properties that were none of these.

Accepting that the Board acted appropriately to take it as a piece to determine what is important and what is not; that was done but not entirely accepted to the Board. I'm giving a fair amount to the applicant. We talked about expertise and John Murphy is certified as an expert and I give a fair amount of weight to that. That speaks to the contributing question.

On the second question, and I heard Councilor Villarreal and Councilor Lindell say we should know about what will happen there if they are demolished. Economic value will be created I wouldn't see it left idle. I don't think, with the price they paid, that it will be open space. So, something will be built that is consistent with our land use code and appropriate for this district. I assume they will build something that will be

consistent in the approval process. From reading the El Castillo project, there was a height exception requested and it eventually delivered an acceptable project. Those are my initial thoughts. That is where I start.

Councilor Romero-Wirth did not know where to start. She asked either Director Johnson or Ms. Gheen to define Mid-century modern design. Her sense was that we have not defined it and just now getting to a need to preserve it.

Director Johnson said that is correct. Many other communities - primarily those that saw more growth in the sixties - have seen the importance of those buildings and conducted their own surveys to determine the architectural characteristics and what is worthy of preservation. Phoenix and Austin have conducted those surveys. We have not yet done that and is part of our problem.

Ms. McSherry asked to swear Director Johnson for her testimony because of other communities being brought up.

Director Johnson was sworn and said 80% of this property will be kept as is. So, the majority of units will be kept - those were the words spoken. So, if we were not to have those five structures. But only talking tonight to decide if 124 and 126 are contributing. If we changed that status, and then, to issue two. the noncontributing to be demolished. If they were demolished, they still had the remainder of the community kept. Are there examples of mid-century modern in the rest of the neighborhood?

Only five units were considered contributing, but they are not any of these. They were recommended but there was no formal action by HDRB to designate them.

Councilor Romero-Wirth wanted to be clear on the public testimony that we are not using "contributing" as seniors contributing. She re-read the four elements for how we are talking about contributing. And, to Councilor Villarreal's point about not being experts, we are asked to reevaluate whether 124 and 126 meet all of these elements. We are not experts, but we have staff testimony that they are not contributing, and they voted 3-2 in final to designate them contributing. I guess that means looking at the picture.

Director Johnson said it is the totality of evidence to guide your decision

Councilor Romero-Wirth said it would be based on staff's recommendation or HDRB's recommendation, so we could go either way. We could say the staff is correct and want to make them noncontributing.

Ms. McSherry said the Governing Body can rely on all the evidence.

Ms. Gheen added that the Governing Body could also choose to not rely on either of them in making their decision

Ms. McSherry said the evidence you have includes the HCPI, the Staff report, Findings of Fact, photographs and the testimony today. Those factors are the only elements you can rely on.

Councilor Romero-Wirth asked if the standard for demolishing is that standard because those structures are noncontributing or contributing. So, because they are non-contributing, they can be demolished and don't have to meet all four elements.

Director Johnson agreed. They are the factors for consideration. If they are contributing, an exception request must be dealt with.

Councilor Romero-Wirth understood that 122 and 125 and garage were noncontributing and 122 was where the H Board put their determination. She asked if someone could help her with their thinking when not knowing what would reestablish or if it was because it is street section or block front.

Ms. Gheen replied that on page 9, she tried to encapsulate that regarding demolition. The bulk of the hearing on June 26 focused mostly on status. From that, she gathered several points. That it was part of an essential street section was Finding #12. From the motion, the resolution of design exemplified by these structures and unique street section. And because it was found to be part of an essential street section, then the Board wanted to see if it was going to be re-established and because the Board found no information on how to be re-established, it was the primary factor in denial of demolition. So, you might wish to follow that same path - Is it an essential street section of block front and will it be re-established?

Councilor Romero-Wirth asked for any evidence we have for condition of these buildings.

Ms. Gheen said nothing in the record indicates it was not structurally sound - but they do not meet current code.

Director Johnson agreed they don't meet current code.

Councilor Romero-Wirth said we don't know if it has historic significance because that was not determined in mid-century modern style.

Ms. Gheen said they didn't find it of historic significance and not in need of repair. Finding #11 says neither historic importance and not in need of repair. So that did not factor into their decision - #2 was overshadowing the decision.

Councilor Romero-Wirth said okay. So, they decided it was an essential part of street section or block front. So, this street is separate from the area.

Ms. Gheen noted that discussion was rather brief.

Councilor Romero-Wirth asked then how we can know this street is different than the rest of the property.

Ms. Gheen did not answer.

Director Johnson said what she found is that it is a cul-de-sac. The majority runs east-west and it makes an L, and these are at the end of the cul-de-sac, essentially. So, it could be considered unique but also a lesser element of that development.

Councilor Romero-Wirth asked for the definition of street section and block front.

Director Johnson said there was no definition of that.

Councilor Romero-Wirth asked, if we deny that, could they come back with what re-establishes it to maintain this unique street section?

Ms. Gheen thought that could be a new element and would first be decided by the Board by reopening the application.

Director Johnson agreed.

Mayor Webber asked Ms. Gheen if it is about five demolition permits.

Ms. Gheen agreed. That is what the appellants requested in their appeal but there are really only two final actions being appealed – the status of two units and three denials of demolition.

Mayor Webber recalled a point raised by public testimony - that the resident's bill of rights be considered. We have a resident's bill of rights and on the other hand are the factors for demolition. Does the resident's bill of rights apply?

Ms. Gheen clarified that it is an appeal of the HDRB, who can only consider what they are given authority to consider. So, it is limited in scope to those factors and elements.

Mayor Webber reasoned that we are not applying certain parts of our responsibility but acting as a quasi-judicial body on a narrow list of factors on appeal

Ms. Gheen agreed.

Mayor Webber asked the best example is not a factor to consider.

Ms. Gheen asked if he meant for status or demolition.

Mayor Webber said he was applying it broadly

Ms. Gheen said best example is not in the code. So, it doesn't need to be the best example.

Mayor Webber understood we are not cherry picking what would apply from the code. Does the section of street section or block front apply to private roads?

Ms. Gheen didn't believe that was defined in the code. There is ambiguity on that. That was factor #2 in demolition street section or block front - block front is not defined and can be interpreted.

Mayor Webber asked for an example.

Director Johnson said that is broadly speaking of urban design. We have had difficulty with definition of streetscape and that gives us more guidance. Those design elements provide the best guidance.

Mayor Webber asked of Mr. Lloyd about issue #1 on contributing status. Would you agree they are approximately 50 years old?

Mr. Lloyd agreed.

Mayor Webber asked if they fit the character of this district.

Mr. Lloyd said that is not defined.

Mayor Webber asked if a definition of midcentury modern is part of the vocabulary of American architecture.

Mr. Lloyd said that is difficult to answer. The historic ordinance defined those two criteria, and these don't fit that.

Mayor Webber asked if he agreed agree it was not part of American architecture.

Mr. Lloyd said it was part.

Mayor Webber asked, if it is midcentury in America, why wouldn't it also in Santa Fe.

Mr. Sommer clarified that the ordinance is very specific to Downtown and Eastside Historic District. It says Territorial or Spanish Pueblo Revival - for old Santa Fe and recent Santa Fe styles. We could change the ordinance, but it is why this district is particularly important. That is what this preservation ordinance is about. Mid-century

does not make this district important. It is not important to this district or contribute to what makes this district important. The buildings by John Gaw Meem who tried to establish and reestablish Spanish Pueblo are what is important.

Ms. Johnson said Section 14-5.2C 11 a - states each structure be recognized as of place and time. In other words, we are trying to have a preservation process that recognizes evolution and deserves to be preserved.

Mr. Sommer begged to differ because this ordinance is what makes this district important and mid -century was never part of it. What you read was from a staff memo in the other case. That was taken from the definition of the preservation ordinance. It is not a standard. Preservation is important and should not be denigrated just because a building is 50 years old.

Mayor Webber agreed, but we are not closing the door on other architecture being significant.

Councilor Romero-Wirth asked to hear from our attorney.

Mayor Webber asked Ms. Gheen if that is not covered by our criteria.

Ms. Gheen said the Board did find that 124 and 126 reflect a simple Spanish pueblo style. So, following what Mr. Sommer said, the Board did find the building conformed to the character of the district.

Mayor Webber so our answer is that I'm arguing on the wrong basis. So, are we locked in time to only two styles worthy of preservation or with 50-year following period how Santa Fe adapts to change over time?

Director Johnson noted that at the introduction of design standards - that a style of architecture has evolved since 1600s. And it says recent style differs with different materials and decorations and it goes on to say that it reflects the old Santa Fe style. And these style requirements are fairly broad so you could see how other styles could conform to Santa Fe style. There are many variations in recent Santa Fe style that are not enumerated.

Mayor Webber to Mr. Lloyd - we disagree perhaps on whether it maintains the character of the district. Has integrity remained with minor alterations? Does it meet that test?

Mr. Lloyd said it does not. There have been changes to those buildings. The staff agreed with that and the independent consultant agreed with that. So at least three experts are stating that is not the case.

Mayor Webber asked Director Johnson about integrity. Have they been altered

enough to not be contributing?

Director Johnson said that is very subjective and she did not review the HCPI on them.

Mayor Webber said we have not gone on a field trip but in previous appeals said there were dramatic alterations. Has that level of alteration been done to these two buildings?

Mr. Lloyd said he could not compare the two.

Ms. Gheen said she did not have the insight on the previous alteration but HCPI for 124 is on page 99 – “date unknown - replaced windows and doors.” And for 126 on page 119 - states “modifications on date unknown. Replace sliding glass doors.” The Board found replacing windows and doors was not enough.

Councilor Vigil Coppler, out of curiosity, said “I used to live on Old Taos Highway. I wondered, if we are talking about Camino Santiago, Old Taos Highway or Paseo de Peralta (as the streetscape). I was in there and saw that at one time they had an ugly yellow gate. Do they have ability to get onto Old Taos Highway?”

Mr. Lloyd said there are gates at each end. So, it is private. They are rusted metal.

Councilor Vigil Coppler knew those gates were there for many years. Blocking access to Old Taos Highway. “I wouldn't want them preserved at all. I always saw these buildings and were not particularly lovely. If we could have something more presentable and more Santa Fe-ish - I'm for that. I like the city to look lovely, and to me, this does not look lovely. As you drive through that street, it is a very quaint neighborhood and I am glad to see the developer wants to keep them now and in the future. To me, these structures don't add value. I don't think it is fair and think Councilor Harris alluded to it. I think it is important to start from when the appeal was started. 49 years is close to 50 years but to me the factor is 50 years, not less. I saw the pictures from DOT and don't see these structures existing at that time of that picture.”

She said, “I looked at all of that. From the time of this appeal that these are less than 50 years old. I don't think these structures maintain the character of the historic district - not only my preference from Old Taos Highway but also at the hearing on March 27, 2013 - the Governing Body determined they were not significant and give credence to the very renowned person we used to employ. We've had to ask David permission for things - sometimes I wish they got rid of you but now I'm glad the city didn't. I value your opinion and it carries a lot of weight. As I read through things from the past, I'm always suspicious when a Board says they like it and then not. I wonder about that.

Back in 2013, the Governing Body decided on many items that we are considering tonight. With the testimony tonight, I have not heard anything that supports the HDRB decision. The streetscape is that some things are beautiful to some and not to others. I don't see the value in preserving this.

Mr. Sommer said, I know we are all tired. I just wanted to let you know I have some points to make.

Mayor Webber agreed. We have not forgotten.

Councilor Abeyta commented, "My feeling is, in looking at Downtown and Eastside standards, that if we continue to allow this rolling 50-year standard that everything will eventually be contributing and not allow any development in downtown. That is my train of thought."

Mayor Webber said we do have to give Mr. Sommer his closing statement and then discuss and make a decision. Are there specific questions?

Councilor Harris went back to his initial line of questioning. The Ghost Ranch property - 401 Old Taos Highway - I look at the packet and we have on page 40 the aerial photograph of the property and the lower left-hand corner is 401 Old Taos Highway. Has all of that property been demolished?

Mr. Lloyd said it has.

Councilor Harris observed the closest property is the big garage. I appreciate more the standards of the district for those particular styles. Mid-century it is not but has to do with time and place. All the buildings that preceded the other buildings and these that we are talking about were perhaps among the last ones to be developed. So, no matter how we feel about mid-century that the whole sense of time and place - for Ghost Ranch - all went away and that takes away a lot of the reason for being of these buildings.

Mayor Webber to Director Johnson said there are a variety of categories on what a historic district is and a historic compound. What is a historic compound? Have we lost the anchor element?

Director Johnson read the definition which included being listed on the historic compound register. This property is not listed on the historic compound register.

Mayor Webber understood we have the category but have not designated this one as a compound.

There were no more questions at 10:35.

Mr. Sommer gave his closing statement. He quoted from the definition that at least 50% must be contributing and this has not met that standard. Regarding procedure, specifically address why it is messy and bring clarity - our application was to demolish five buildings. That was denied or not approved. That is de novo. Whether there are some that are contributing - that is your jurisdiction. It was filed in October 2017 and decided in 2018. The Board must decide in 65 days per code, but they didn't decide. The Board required the survey, but the Board ignored the survey. In April, they made a decision that 124 could be demolished, and the garage could be demolished and 126 the chairman called for a new decision and they went into executive session. What does that tell the applicant and the public? They were not going to tell us what their decision is based on. When they came back, they rescinded their decision. So, we went to the First Presbyterian Church and went through all of their boxes and to the Menaul Library in Albuquerque and brought it all back. And the Board then decided that 124 was contributing and 125 was not. Arbitrary decision. Mr. Powell said he drove out there with my friend and my friend thought it was important and that was important in the decision - it was handled sloppily. If they had followed the ordinance, it would be a lot clearer - How is it unraveled - Look at the basis of their decision one criterion that the midcentury contributed to the downtown district. But that is wrong. It is not part of his ordinance. A geodesic design will be considered important. And that will gut our ordinance. That is not the way it should be applied in this case. The ordinance is about old Santa Fe Style and recent Santa Fe style and there is a reason for that. From John Gaw Meem - all of it depends on Spanish Pueblo Revival - old and recent. It is clear these buildings don't comply. The demolition side is even easier - this is not in preservation ordinance but demolishing any building in historic district 3 criteria - significance of architecture - these are not historically significant. Net a report on structural stability. Is it falling down? Does it meet code? They don't meet code and are in disrepair. These are the only criteria that are important. Whether the structure is essential part of a unique street section it has to be a public ordinance a street is a ROW dedicated to public use to adjoining properties and any public thoroughfare and approach that extends to property line. This is not a street under the ordinance. Does it meet a block section? What they said and what the Board found that the carports that do not face a street - they are not part of a street by any imagination. It is not even a block - a section of street confined. None of it meets the definition. But they said it is and you cannot take them down. It is one building - not a block. The same is true with the other ones. They mystified the standard. Is it a unique street section - no. And not a unique block and the Board found the other two don't matter. This has been two years and put through the wringer and trying to find out why it is not possible. It doesn't meet the ordinance and if you find it does, it does violence to that ordinance. Our ordinance is unique. The standards have not been met. Councilor Harris said it right, we will come in with an application that complies and that is what they are getting next door. Why? They came back later after demolition. Thank you.

Mayor Webber noted that a closed session has been said is less than noble. We are not required to do it and can discuss it in public. We should do motions on item one and then item two.

Councilor Abeyta concluded that your "50 Year Crawl" would soon prevent affordable housing development in downtown. I don't think so. Affordable Housing is spread all over the city. I don't think mid-century modern is what was intended. It is not Santa Fe Style.

Council Action on Issue One: Contributing Status

MOTION: Councilor Abeyta moved, seconded by Councilor Vigil Coppler, to grant the appeal and designate 124 and 126 as non-contributing, because they do not exhibit sufficient historic integrity to establish and maintain the character of the H District.

Discussion on the Motion:

Councilor Rivera said we are being asked to decide something in four hours where the HDRB has had more than a year on it and done a walk-through of the area. They clearly struggled with the issue. That is why we have the HDRB to do the tough work, so we hopefully don't have to make a decision in 4 hours. We turned over other decisions they made. Why do we have a HDRB if we don't allow them to make the decisions and everything come to us? I trust they did their homework and made the tough decision. I trust they did it properly and made each right decision and I voted against the Old Taos Highway decision.

Mayor Webber asked if he was suggesting we need more time to mull it over.

Councilor Abeyta said he made a motion and it has been seconded.

Mayor Webber agreed that it obviously is not an easy thing to do. We argued about whether mid-century is irrelevant. There were emotional issues of community and family. We heard aesthetic testimony and we are hard pressed to do well.

Councilor Harris acknowledged whether it is HDRB or Planning Commission, a lot of work goes into it and understood when you do it. There are decisions made that are appealed and we lived with it as Planning Commissioners and here, we as Councilors live with it. They were well meaning but just got it wrong. I'll support the motion and people probably understand why. The arguments made by the Appellant are persuasive. The main element was demolished, and the language of street section is important language. It is an engineering term. My reasons for supporting this motion are those.

Councilor Romero-Wirth said she could ask questions of our understanding on contributing. We heard that because our ordinance doesn't specifically mention mid-century that it isn't included but Director Johnson said it could be included.

Mayor Webber said there is disagreement and that the prior decision was precedent setting. It is a muddy issue because of that executive session and a messy procedure, and it is a damned hard case.

VOTE: The motion failed on the following roll call vote:

For: Councilor Abeyta, Councilor Vigil Coppler, Councilor Harris.

Against: Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Villarreal, and Mayor Webber.

MOTION: Councilor Lindell moved, seconded by Councilor Rivera, to deny the appeal and affirm the Board's status decision and independently designate Unit 124 and 126 Camino Santiago as Contributing as well as adopt the Board's designation of the respective primary façades and direct Staff to draft Findings of Fact and Conclusions of Law to reflect its decision.

VOTE: The motion was approved on the following roll call vote:

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

Against: Councilor Abeyta, Councilor Vigil Coppler and Councilor Harris.

Council Action regarding Issue 2, dealing with demolition:

Mayor Webber gave the options of different ways to take the structures under consideration. We could grant the appeal and approve the demolition of all three structures, we can grant in part or deny part and allow the remaining structures or deny the appeal and affirm the Board's decision that demolition is not allowed.

MOTION: Councilor Abeyta moved, seconded by Councilor Vigil Coppler, to grant the appeal and approve the demolition of all three structures because this does not constitute an essential part of a unique street section, as defined by our Code or a block front.

Discussion on the Motion:

Mayor Webber said the question of what constitutes a block front is troubling. Councilor Harris helped a little as an engineering term. How does block front apply? Is it what you see as you walk by? Are we trying to retain a similar appearance? From the

prior vote was the question not answered tonight about what would be proposed to establish it again?

Councilor Harris said we did not address the block front issue. We heard a 300' radius for streetscape. The Board gave factor #2 great weight, but they were not being fair. Frankly, something will go back in that space like in the Ghost Ranch case. An applicant brought that forward, and it did comply. Whatever happens here will be in compliance. That is my opinion.

VOTE: The motion was not approved on the following roll call vote:

For: Councilor Harris, Councilor Abeyta, Councilor Lindell, and Councilor Vigil Coppler.

Against: Councilor Rivera, Councilor Romero-Wirth, Councilor Villarreal and Mayor Webber.

Mayor Webber announced the result is a 4-4 vote and does not pass.

MOTION: Councilor Lindell moved, seconded by Councilor Villarreal, that the Governing Body allow the garage to be demolished but 122 and 125 not allowed to be demolished, and direct Staff to draft Findings of Fact and Conclusions of Law to reflect that; and dismiss the demolition appeal regarding 124 and 126 Camino Santiago since no final action was taken by the Board to appeal.

VOTE: The motion was approved on the following (5-3) roll call vote:

For: Councilor Vigil Coppler, Councilor Villarreal, Councilor Lindell, Councilor Rivera, Mayor Webber

Against: Councilor Romero-Wirth, Councilor Abeyta, Councilor Harris

Mr. Sommer asked for clarity: if the motion implied 122 and 125 would not be demolished until it was established what would replace them under the ordinance. He thought that was what Council was after but didn't want to leave here without knowing. If there is a blanket ruling that they could never be demolished, was not the intent but would be until the Applicant could show what would replace them. Is that right?

Ms. McSherry said that action was taken within the application that was submitted. If a different application were submitted with different facts, it could be considered.

Mayor Webber thought that was helpful. We are not making a blanket statement that it could not ever be demolished.

Mr. Sommer concluded that we should make a new application if we want them demolished.

15. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

16. COMMUNICATIONS FROM THE GOVERNING BODY

Councilor Villarreal introduced a resolution on the Rio Grande Trail Master Plan.

Councilor Vigil Coppler wished our new Governor well in her new role and looking forward to working with her.

Mayor Webber said today is Public Safety Recognition Day and he is very grateful to those who put themselves on the line every day and, in the spirit of gratitude, he extended heartfelt gratitude to all in our city, county and state.

Councilor Lindell thanked Ms. Gheen for her hard work for the City. "You are leaving our family shortly, but we want to thank you. And it was great working with you, and I wish you well in your future. Have a great time. You have earned it."

I. ADJOURN

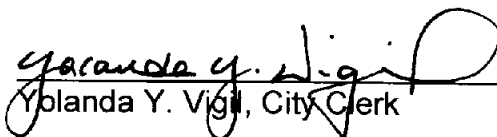
Having completed the agenda and with no further business to come before the Governing Body, the meeting was adjourned at 11:11 P. M.

Approved by:



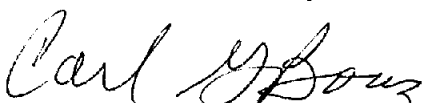
Mayor Alan Webber

ATTESTED TO:



Yolanda Y. Vigil, City Clerk

Respectfully submitted by:



Carl G. Boaz, Council Stenographer

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2019-__
Open Meetings Act - 2019

Members of the City Council:

I propose the following amendment(s) to Resolution No. 2019-__:

1. On page 1, *delete* lines 19-20 in their entirety

Respectfully submitted,

Alan M. Webber, Mayor

ADOPTED: _____

NOT ADOPTED: _____

DATE: _____

Yolanda Y. Vigil, City Clerk



FARO Technologies Inc
250 Technology Park
Lake Mary FL 32746-7115
Phone No: 866-874-1149
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FARO Technologies, Inc.
P.O. Box 116908
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Quotation No: 20236268
Quote Date: 01/08/2019
Expiration Date: 03/07/2019
Regional Manager: Scott Schacht
Account Manager: Joseph Lanzo
Sales Support: Veronica List
Ship: Ground
Payment Terms: Net due in 30 days
with approved credit
Delivery Terms: EXW Origin
Delivery Date: 4-6 Weeks

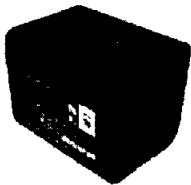
Bill To :
Santa Fe Police Department
2515 Camino Entrada
Santa Fe NM 87507-4808
US

Ship To :
Santa Fe Police Department
Robert Vasquez
2515 Camino Entrada
Santa Fe NM 87507-4808
US

Qty	Item No.	Description	Unit Price	Discount	Ext. Price
1	LS-8-S-150	3D_HW_LS_FocusS 150 Laser Scanner FocusS 150 ships with: 1 FocusS 150, with HDR photography, with GPS, compass, altimeter (barometer), dual-axis compensator, WLAN, accessory bay, IP rating 54, on-site compensation functionality, 1x Battery Power Block, 1x Battery Power Dock, 1x 90W Power Supply, 1x Optic Cleaning Fluid, 3x Optic Cleaning Tissues, 1x 32GB SD card, 1x SD card reader, 1x SD card cover, 1x Allen wrench, 1x rugged transport case, calibration certificate and a quick start guide. Please notice: the lead-time may take 6 weeks or more after receipt of written order.	47,600.00	0.00	47,600.00

PURCHASE AGREEMENT AND CONDITIONS OF SALE Customer will pay any federal, state and local taxes. All conditions of sale, service and warranty as described in FARO standard purchase conditions currently on file with FARO are made as part of this Quotation and are incorporated herein by reference (02FRM522). DR12 PLEASE REFERENCE FARO QUOTE NUMBER ON ALL DOCUMENTS. BY REFERENCING FARO QUOTE, CUSTOMER AGREES TO SAID TERMS AND CONDITIONS AS LISTED ON FARO QUOTATION.

Qty	Item No.	Description	Unit Price	Discount	Ext. Price
1	TR-SCN-POS	Laser Scanner Tr. - FARO Fac. - Inc Three-day course for two (2) trainee at an approved FARO training facility that discusses LS operation, setup, and basic measurements. NOTE: Classroom trainings are limited to six (6) trainees and are scheduled on a first come, first served basis. Classes can be canceled within two weeks of the scheduled date if sufficient enrollment is not met. NOTE: Training will expire if not taken within 90-days of receipt of equipment. No charge item applicable only with purchase of Laser Scanner. OPEN MARKET ITEM	0.00	0.00	0.00
1	SOFTL0002	Single User Hard Lock Hard lock (USB Dongle) for one single user license. Software licenses purchased separately. Can be used together with SCENE, CAM2, FaroZone or As-Built Software products.	181.35	0.00	181.35
1	SOFTS0900	3D_SW_SC_Scene FARO SCENE Software. Process, register, view and work on 3D Laser scan data. Includes 1-year of software maintenance	5,540.55	0.00	5,540.55
1	ACCSS8001	3D_AC_LS_FocusS Battery Power Block Power Block battery for FARO Focus S and Scan Localizer	525.94	0.00	525.94



Additional Information

QUOTE TERMS

To accurately and promptly process your order, the following information is required with your Purchase Order.

1. Purchase Order Number (PO#)
2. Bill To AND Ship To Address (even if they are the same)
3. Net 30 or Sooner Payment Terms
4. Prepay and Add Freight Charges OR Collect (with your shippers Account #)
5. Method of Shipment (Best Way, Ground, Overnight, 2DAY)
6. FOB Origin or Destination (for GSA and Warranty ONLY Customers)
7. FARO Quote Number
8. PO Signed and Dated
9. Ship To State Tax Exemption Certificate OR acknowledgement to charge tax
10. Signed Credit Application (New Customers ONLY)

Quoted delivery terms are contingent upon timely receipt of all above listed items.

CALIBRATION CAPABILITIES

FARO meets the calibration requirements of ISO/IEC 17025:2005 for USB Arms, Bluetooth Gage, Gages, 3D Imager, LLP and Laser Trackers. Our capabilities are listed on our ISO/IEC 17025:2005 Scope of Accreditation and might vary by location. The scope of each location can be accessed from the FARO website.

CALIBRATION STANDARDS

USB Arms and Bluetooth Gage are calibrated in accordance with ASME B89.4.22-2004.

Other Gage Models are calibrated in accordance with ISO 10360-12:2016.

3D Imager are calibrated in accordance with VDI/VDE 2634-2:2012.

Laser Trackers are calibrated in accordance with B89.4.19-2006* as requested by the Customer.

*Part # 960-02589 - System Calibration is an additional calibration process to our Part # ACC-00 - Standard Calibration.

Quantum S/M Arms are calibrated in accordance with ISO 10360-12:2016.

DECISION RULE

For B89 Calibration, FARO follows the recommendation of the ASME B89.4.22-2004, Appendix J, in the application of the decision rule to testing results. This appendix states "B89 standards that adopt standards referencing ISO 14253-1 as a normative standard shall explicitly state a different decision rule, where the 4:1 simple acceptance and rejection rule from B89.7.3.1 shall be the default rule unless a different rule is specified."

For ISO 10360-12:2016 Calibration, FARO follows this Standard's recommendation, Introduction Clause, in the application of the decision rule to testing results. This clause states that "the default decision rules given in ISO 14253-1 apply to specifications made in accordance with this part of ISO 10360, unless otherwise indicated." The relevant decision rule in ISO 14253-1:1998 is given in Clause 5.2, "Rule for proving conformance with specifications." FARO also follows this decision rule according to the recommendation of VDI/VDE 2634-2:2012, Annex 4.3.5.

CUSTOMS and EXPORT CONTROL

Deliveries of these goods/products, software, technologies, know-how-transfer to other countries (e.g. embargos) or to other receivers can be subject to authorization or may be prohibited. US-origin goods/products, software, technologies, know-how-transfer or products which include 10/25 % US- origin, are liable to US-Export-Administration Regulations and could be subject to authorization or may be prohibited.

GSA QUOTE

Pricing, terms and conditions per GSA contract GS07F197GA.

Expiration of contract 9/27/2022.

GSA STANDARD TERMS AND CONDITIONS OF SALE

AUTHORIZED FEDERAL SUPPLY SCHEDULE PRICE LIST
FSC GROUP 66 FSC CLASSES

SPECIAL ITEM NUMBER 627-1007 # Scientific Equipment and Services

FARO TECHNOLOGIES, INC

Faro Technologies, Inc
250 Technology Park
Lake Mary, FL 32746
T: 407-333-9911
F: 407-333-4181
www.faro.com

Contract Number: __GS07F197GA

Period Covered by Contract: __9/28/2017 # 9/27/2022_____

General Services Administration
Federal Acquisition Service
Products and ordering information in this Authorized FSS Information Technology Schedule Pricelist are also available on the GSA Advantage System. Agencies can browse GSA Advantage by accessing the Federal Acquisition Service's Home Page via the Internet at <http://www.fss.gsa.gov/>

INFORMATION FOR ORDERING ACTIVITIES

1. GEOGRAPHIC SCOPE OF CONTRACT:

Domestic delivery is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. Territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

Overseas delivery is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. Territories.

Offerors are requested to check one of the following boxes:

- ☐ The Geographic Scope of Contract will be domestic and overseas delivery.
☐ The Geographic Scope of Contract will be overseas delivery only.
☒ The Geographic Scope of Contract will be domestic delivery only.

2. CONTRACTOR'S ORDERING ADDRESS AND PAYMENT INFORMATION:

Lockbox Address
Faro Technologies, Inc.
PO Box 116908
Atlanta, GA

Contractor must accept the credit card for payments equal to or less than the micro-purchase for oral or written orders under this contract. The Contractor and the ordering agency may agree to use the credit card for dollar amounts over the micro-purchase threshold (See GSAR 552.232-79 Payment by Credit Card. Wire transfer information can be obtained from the local sales representative or the accounting department.

3. LIABILITY FOR INJURY OR DAMAGE

The Contractor shall not be liable for any injury to ordering activity personnel or damage to ordering activity property arising from the use of equipment maintained by the Contractor, unless such injury or damage is due to the fault or negligence of the Contractor.

4. STATISTICAL DATA FOR GOVERNMENT ORDERING OFFICE COMPLETION OF STANDARD FORM 279:

Block 9: G. Order/Modification Under Federal Schedule
Block 16: Data Universal Numbering System (DUNS) Number: __61-730-8929
Block 30: Type of Contractor # C

- A. Small Disadvantaged Business
B. Other Small Business
C. Large Business
G. Other Nonprofit Organization
L. Foreign Contractor

Block 31: Woman-Owned Small Business - YES
Block 36: Contractor's Taxpayer Identification Number (TIN):

19-0296514

4a. CAGE Code: __0VGY2

4b. Contractor has registered with the Central Contractor Registration Database.

5. FOB DESTINATION

6. DELIVERY SCHEDULE

a. TIME OF DELIVERY: The Contractor shall deliver to destination within the number of calendar days after receipt of order (ARO), as set forth below:

SPECIAL ITEM NUMBER 627-1007 DELIVERY TIME (Days ARO)
30-45 __ Days

b. URGENT REQUIREMENTS: When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

7. DISCOUNTS: Prices shown are NET Prices; Basic Discounts have been deducted.

- a. Prompt Payment: Net 30 Days from receipt of invoice or date of acceptance
b. Quantity none
c. Dollar Volume none
d. Government Educational Institutions Same
e. Other none

8. TRADE AGREEMENTS ACT OF 1979, as amended:

9. SMALL REQUIREMENTS. The minimum dollar value of orders to be issued is \$100.00.

10. MAXIMUM ORDER (All dollar amounts are exclusive of any discount for prompt payment.)

a. The Maximum Order value for the following Special Item Numbers (SINs) is \$500,000:
Special Item Number 627-1007 #New Equipment

11. ORDERING PROCEDURES FOR FEDERAL SUPPLY SCHEDULE CONTRACTS

Ordering activities shall use the ordering procedures of Federal Acquisition Regulation (FAR) 8.405 when placing an order or establishing a BPA for supplies or services. These procedures apply to all schedules.

a. FAR 8.405-1 Ordering procedures for supplies, and services not requiring a statement of work.

b. FAR 8.405-2 Ordering procedures for services requiring a statement of work.

12. CONTRACT ADMINISTRATION FOR ORDERING ACTIVITIES: Any ordering activity, with respect to any one or more delivery orders placed by it under this contract, may exercise the same rights of termination as might the GSA Contracting Officer under provisions of FAR 52.212-4, paragraphs (l) Termination for the ordering activity's convenience, and (m) Termination for Cause (See 52.212-4)

13. GSA ADVANTAGE!

GSA Advantage! is an on-line, interactive electronic information and ordering system that provides on-line access to vendors' schedule prices with ordering information. GSA Advantage! will allow the user to perform various searches across all contracts including, but not limited to:

- (1) Manufacturer;
- (2) Manufacturer's Part Number; and
- (3) Product categories.

Agencies can browse GSA Advantage! by accessing the Internet World Wide Web utilizing a browser (ex.: Net Scape). The Internet address is <http://www.gsaadvantage.gov>

14. PURCHASE OF OPEN MARKET ITEMS

NOTE: Open Market Items are also known as incidental items, noncontract items, non-Schedule items, and items not on a Federal Supply Schedule contract. ODCs (Other Direct Costs) are not part of this contract and should be treated as open market purchases. Ordering Activities procuring open market items must follow FAR 8.402(f). For administrative convenience, an ordering activity contracting officer may add items not on the Federal Supply Multiple Award Schedule (MAS) -- referred to as open market items -- to a Federal Supply Schedule blanket purchase agreement (BPA) or an individual task or delivery order, only if:

(1) All applicable acquisition regulations pertaining to the purchase of the items not on the Federal Supply Schedule have been followed (e.g., publicizing (Part 5), competition requirements (Part 6), acquisition of commercial items (Part 12), contracting methods (Parts 13, 14, and 15), and small business programs (Part 19));

(2) The ordering activity contracting officer has determined the price for the items not on the Federal Supply Schedule is fair and reasonable;

(3) The items are clearly labeled on the order as items not on the Federal Supply Schedule; and

(4) All clauses applicable to items not on the Federal Supply Schedule are included in the order.

15. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

a. For the purpose of this contract, commitments, warranties and representations include, in addition to those agreed to for the entire schedule contract:

(1) Time of delivery/installation quotations for individual orders;

(2) Technical representations and/or warranties of products concerning performance, total system performance and/or configuration, physical, design and/or functional characteristics and capabilities of a product/equipment/ service/software package submitted in response to requirements which result in orders under this schedule contract.

(3) Any representations and/or warranties concerning the products made in any literature, description, drawings and/or specifications furnished by the Contractor.

b. The above is not intended to encompass items not currently covered by the GSA Schedule contract.

16. OVERSEAS ACTIVITIES

The terms and conditions of this contract shall apply to all orders for installation, maintenance and repair of equipment in areas listed in the pricelist outside the 48 contiguous states and the District of Columbia, except as indicated below:

NOT OFFERED

Upon request of the Contractor, the ordering activity may provide the Contractor with logistics support, as available, in accordance with all applicable ordering activity regulations. Such ordering activity support will be provided on a reimbursable basis, and will only be provided to the Contractor's technical personnel whose services are exclusively required for the fulfillment of the terms and conditions of this contract.

17. BLANKET PURCHASE AGREEMENTS (BPAs)

The use of BPAs under any schedule contract to fill repetitive needs for supplies or services is allowable. BPAs may be established with one or more schedule contractors. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPA and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). Ordering activities shall follow FAR 8.405-3 when creating and implementing BPAs(s).

18. CONTRACTOR TEAM ARRANGEMENTS

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with Clauses 552.238-74, Industrial Funding Fee and Sales Reporting, i.e., each contractor (team member) must report sales and remit the IFF for all products and services provided under its individual contract.

19. SECTION 508 COMPLIANCE.

I certify that in accordance with 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), FAR 39.2, and the Architectural and Transportation Barriers Compliance Board Electronic and Information Technology (EIT) Accessibility Standards (36 CFR 1194) General Services Administration (GSA), that all IT hardware/software/services are 508 compliant:

Yes ☒ X

No

The EIT standard can be found at www.Section508.gov/.

20. PRIME CONTRACTOR ORDERING FROM FEDERAL SUPPLY SCHEDULES.

Prime Contractors (on cost reimbursement contracts) placing orders under Federal Supply Schedules, on behalf of an ordering activity, shall follow the terms of the applicable schedule and authorization and include with each order #

(a) A copy of the authorization from the ordering activity with whom the contractor has the prime contract (unless a copy was previously furnished to the Federal Supply Schedule contractor); and

(b) The following statement.

This order is placed under written authorization from _____ dated _____. In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern.

21. SOFTWARE INTEROPERABILITY.

Offerors are encouraged to identify within their software items any component interfaces that support open standard interoperability. An item's interface may be identified as interoperable on the basis of participation in a Government agency-sponsored program or in an independent organization program. Interfaces may be identified by reference to an interface registered in the component registry located at <http://www.core.gov>.

22. ADVANCE PAYMENTS

A payment under this contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered. Advance or pre-payment is not authorized or allowed under this contract. (31 U.S.C. 3324)

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF Scientific Equipment and Services (SPECIAL ITEM NUMBER 627-1007)

1. MATERIAL AND WORKMANSHIP

All equipment furnished hereunder must satisfactorily perform the function for which it is intended.

2. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order.

For credit card orders and BPAs, telephone orders are permissible.

3. TRANSPORTATION OF EQUIPMENT

FOB DESTINATION. Prices cover equipment delivery to destination, for any location within the geographic scope of this contract.

4. INSTALLATION AND TECHNICAL SERVICES

a. INSTALLATION. When the equipment provided under this contract is not normally self-installable, the Contractor's technical personnel shall be available to the ordering activity, at the ordering activity's location, to install the equipment and to train ordering activity personnel in the use and maintenance of the equipment. The charges, if any, for such services are listed below, or in the price schedule:

SELF INSTALLATION

b. INSTALLATION, DEINSTALLATION, REINSTALLATION. The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies.

The ordering activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, de-installation, and reinstallation services under SIN 132-8 or SIN 132-9.

c. OPERATING AND MAINTENANCE MANUALS. The Contractor shall furnish the ordering activity with one (1) copy of all operating and maintenance manuals which are normally provided with the equipment being purchased.

5. INSPECTION/ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any equipment that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming equipment at no increase in contract price. The ordering activity must exercise its post acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered, and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

6. WARRANTY

a. Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the contract's commercial pricelist will apply to this contract.

Warranty Coverage

The limited warranty covers defects in materials and workmanship in our customers' brand products or other products sold by FARO to the customer. All products sold by FARO will include a one year standard warranty under this contract. This warranty can be extended via purchasing additional warranty coverage while in the warranty period.

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

d. If inspection and repair of defective equipment under this warranty will be performed at the Contractor's plant, the address is as follows:

FARO Arm and FARO Gage: 125 Technology Park, Lake Mary, FL 32746
FARO Laser Tracker and Focus 3D Scanner: 290 National Rd, Exton, PA 19341

7. PURCHASE PRICE FOR ORDERED EQUIPMENT

The purchase price that the ordering activity will be charged will be the ordering activity purchase price in effect at the time of order placement, or the ordering activity purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less.

8. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, JANUARY 7, 2019**

ITEM 11

REQUEST FOR APPROVAL OF A RESOLUTION CONTRIBUTING PROPERTY AND RESOURCES TO NEW MEXICO INTER-FAITH HOUSING COMMUNITY DEVELOPMENT CORPORATION FOR DEVELOPMENT OF THE SANTA FE ARTS+CREATIVITY CENTER LOW INCOME HOUSING TAX CREDIT PROJECT PURSUANT TO THE AFFORDABLE HOUSING ACT (MAYOR WEBBER, COUNCILORS IVES AND RIVERA) (ALEXANDRA LADD, OFFICE OF AFFORDABLE HOUSING DIRECTOR, AGLADD@SANTAFENM.GOV, 955-6346)

PUBLIC WORKS COMMITTEE ACTION:

Approved as discussed

FUNDING SOURCE:**SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:**

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON IVES			
COUNCILOR ABEYTA	X		
COUNCILOR VIGIL COPPLER	X		
COUNCILOR HARRIS	X		
COUNCILOR VILLARREAL	X		

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2019-____

Arts and Creativity Center LIHTC Contribution

SPONSOR(S): Mayor Webber, Councilors Ives and Rivera

SUMMARY: The proposed resolution authorizes the contribution of property and resources to the New Mexico Inter-Faith Housing Community Development Corporation for the development of the Arts+Creativity Center located on Siler Road in support of their Low Income Housing Tax Credit application.

PREPARED BY: Jesse Guillen, Legislative Liaison

FISCAL IMPACT: \$2,222,872 from various sources including land donation, affordable housing fee waivers, impact fee waivers, relocation costs, and other infrastructure costs.

DATE: January 8, 2019

ATTACHMENTS: Amendments
Resolution
Amended FIR
Exhibit A

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2019-__
Arts and Creativity Center LIHTC Contribution

Members of the City Council:

I propose the following amendment(s) to Resolution No. 2019-__:

1. On page 4, line 6 *delete* "(subject to current appraisal)"

Respectfully submitted,

Alan M. Webber, Mayor

ADOPTED: _____

NOT ADOPTED: _____

DATE: _____

Yolanda Y. Vigil, City Clerk

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2019-__
Arts and Creativity Center LIHTC Contribution

Members of the City Council:

I propose the following amendment(s) to Resolution No. 2019-__:

1. On page 1, line 17 *delete* "2,600" and *insert* "2,400" in lieu thereof
2. On page 1, line 23 *delete* "at least 60 affordable live/work rental" and *insert* "at least 50 affordable live/work units, with additional market rate units not to exceed 65 total units." in lieu thereof
3. On page 3, lines 19-20 *delete* "Mortgage Finance Authority – Affordable Housing Act –" and *insert* "Affordable Housing Act and the New Mexico Mortgage Finance Authority's Affordable Housing Act" in lieu thereof
4. On page 3, line 25 after "as per" *insert* "SFCC 14-8.11(G)"

Respectfully submitted,

Alan M. Webber, Mayor

ADOPTED: _____

NOT ADOPTED: _____

DATE: _____

Yolanda Y. Vigil, City Clerk

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION 2019-__

3 INTRODUCED BY:

4
5 Mayor Alan M. Webber

6 Councilor Peter N. Ives

7 Councilor Christopher M. Rivera

8
9
10 A RESOLUTION

11 CONTRIBUTING PROPERTY AND RESOURCES TO NEW MEXICO INTER-FAITH
12 HOUSING COMMUNITY DEVELOPMENT CORPORATION FOR DEVELOPMENT OF
13 THE SANTA FE ARTS+CREATIVITY CENTER LOW INCOME HOUSING TAX CREDIT
14 PROJECT PURSUANT TO THE AFFORDABLE HOUSING ACT.

15
16 WHEREAS, the updated Housing Needs Analysis from the City's 2018 Consolidated Plan
17 indicates that Santa Fe's rental housing market has a gap of approximately 2,600 units that are
18 affordable to renters earning less than \$25,000 per year; and

19 WHEREAS, the City of Santa Fe policy is to provide incentives and encourage proposals that
20 support the production, acquisition, and redevelopment of rental housing in mixed income
21 developments; and

22 WHEREAS, the City intends to donate a 5-acre parcel of land as shown in attached Exhibit A
23 to serve households earning from 30-60% of median income with at least 60 affordable live/work rental,
24 dedicated outdoor amenities, green space, and shared facilities for residents of the Arts + Creativity
25 Center Low Income Housing Tax Credit Project (the "Project"); and

1 **WHEREAS**, the City’s donations are proposed to be contingent upon the project receiving
2 Low Income Housing Tax Credit (LIHTC) subsidies; and

3 **WHEREAS**, the land that the City intends to donate for the Project is located in both a majority
4 low- and moderate-income Census tract and a Qualified Census Tract (QCT) as designated by the U.S.
5 Department of Housing and Urban Development (HUD); and

6 **WHEREAS**, the Project is located in the Siler Redevelopment District as designated by the
7 1999 General Plan and is a critical component of the redevelopment of the City-owned Public Works
8 Yard; and

9 **WHEREAS**, the Project’s Census Tract is designated as an Opportunity Zone by the U.S.
10 Treasury, a designation which increases the viability of leveraging private investment; and

11 **WHEREAS**, Resolution No. 2014-13 directed City staff to work with Creative Santa Fe; other
12 community arts, culture, and creative organizations and businesses; and Artspace Projects to produce a
13 plan to move the Project through several planning and implementation steps to completion; and

14 **WHEREAS**, Resolution No. 2015-24 directed City staff to develop criteria for a municipal
15 land donation with the potential to attract a LIHTC subsidy; identify a City-owned site that meets the
16 criteria; and monitor the next level of due diligence on the site including a definition of the project area
17 and completion of the following steps: necessary environmental assessments, preliminary engineering
18 assessments, land survey, and real estate appraisal of the donated area; and

19 **WHEREAS**, Resolution No. 2016-30 contributed property located at the City’s Siler Public
20 Works Yard and resources to New Mexico Interfaith Housing Community Development Corporation
21 (“Developer”) for development of the Project, pursuant to the NM Affordable Housing Act; and

22 **WHEREAS**, Ordinance No. 2016-44 amended the City’s official zoning map, changing the
23 zoning classification from I-2 (General Industrial) to C-2 (General Commercial) for property shown in
24 attached Exhibit A comprising approximately 5.00+/- acres located along the West side of Siler Road
25 to allow for the development of multi-family housing; and

1 **WHEREAS**, Resolution No. 2018-9 committed additional resources in the amount of
2 \$400,000 to support the development of the Project, including improvements to Siler Road and the
3 installation of public utility infrastructure, using funds from a combination of sources further approved
4 by source and amount at the time of the award, as approved by the Governing Body; and

5 **WHEREAS**, the City supports the Developer's application for Affordable Housing Program
6 (AHP) Funds from the Federal Home Loan Bank of Dallas; and

7 **WHEREAS**, the proposed donation and Project conform to the City of Santa Fe Five-Year
8 Strategic Housing Plan "Affordable Housing Element" adopted in conformance to the Affordable
9 Housing Act by Ordinance No. 2007-23 pursuant to the express statutory authority conferred upon
10 municipalities to enact a housing code pursuant to Section 3-17-6A(8) NMSA 1978; to enact ordinances
11 pursuant to its police power, Section 3-17-1 B NMSA 1978; to provide for affordable housing pursuant
12 to subsections E and F of Article 9, Section 14, of the New Mexico Constitution and the Affordable
13 Housing Act (Sections 6-27-1 through 6-27-9 NMSA 1978) and in particular to provide a portion of
14 the cost of financing and/or authorizing housing assistance grants for the purpose of affordable housing
15 pursuant to Section 6-27-5 NMSA 1978, and pursuant to any and all such other authority as may be
16 applicable including but not limited to the City's recognized authority to protect the general welfare of
17 its citizens; and

18 **WHEREAS**, it is the intent of the parties that the City of Santa Fe's contribution to the Project
19 meets the requirements of the New Mexico Mortgage Finance Authority – Affordable Housing Act –
20 Rules, Section 5.4;

21 **WHEREAS**, Section 26-1.6(A) SFCC 1987 established the Office of Affordable Housing to
22 administer the City's affordable housing program, the Santa Fe Homes Program ("SFHP"); and

23 **WHEREAS**, the Office of Affordable Housing is authorized by the SFHP to provide donations
24 to the Project including water budget fees, impact fees, construction permit and plan review fees, water
25 and wastewater utility expansion charges, as per; infrastructure funding (as described in Resolution

1 2018-9), and other valuable incentives; and

2 **WHEREAS**, the above referenced donations will be contributed to the Project without debt or
3 interest pursuant to the terms of a land use regulatory agreement.

4 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
5 **CITY OF SANTA FE** that the City will support the Project with donations in an amount equal to the
6 appraised value of the parcel shown in Exhibit A (subject to a current appraisal), plus donations related
7 to water budget fees, impact fees, construction permit and plan review fees, water and wastewater utility
8 expansion charges, as per SFCC 14-8.11(G), infrastructure funding (as described in Resolution 2018-
9 9), and other valuable incentives, in an amount no less than 10% of the Project's development costs in
10 furtherance of a competitive LIHTC application. The City's donation shall be made in the form of a
11 grant, subject to the terms of a land use regulatory agreement requiring an affordability period of forty
12 (40) years running concurrently with requirements with the LIHTC program requirements serving
13 targeted low income clientele for consistency. If LIHTC funds are not secured by the Developer in the
14 2019 allocation round, the City of Santa Fe will have no further obligation to the Project.

15 **BE IT FURTHER RESOLVED** that staff shall work to minimize the costs associated with
16 relocating to adjacent locations any City uses currently occupying the parcel of land shown in Exhibit
17 A.

18 **BE IT FURTHER RESOLVED** that the Project be designed to be consistent with the City of
19 Santa Fe's long term sustainability goals.

20 **BE IT FURTHER RESOLVED** that the Governing Body of the City of Santa Fe hereby
21 directs the City Clerk to provide an executed copy of this resolution to Santa Fe County.

22 PASSED, APPROVED and ADOPTED, this _____ day of _____, 2019.
23
24
25

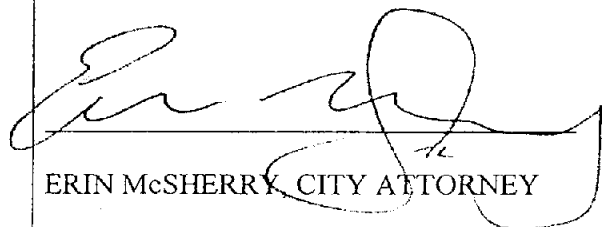
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ALAN WEBBER, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



ERIN McSHERRY, CITY ATTORNEY

**City of Santa Fe
Fiscal Impact Report (FIR)**

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: x

(A single FIR may be used for related bills and/or resolutions)

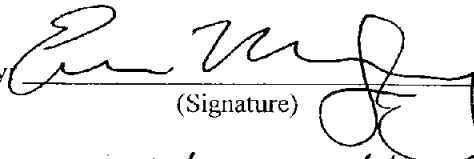
Short Title(s): **A RESOLUTION CONTRIBUTING PROPERTY AND RESOURCES TO NEW MEXICO INTER-FAITH HOUSING COMMUNITY DEVELOPMENT CORPORATION FOR DEVELOPMENT OF THE SANTA FE ARTS+CREATIVITY CENTER LOW INCOME HOUSING TAX CREDIT PROJECT PURSUANT TO THE AFFORDABLE HOUSING ACT.**

Sponsor(s): Mayor Webber, Councilors Ives and Rivera

Reviewing Department(s): Affordable Housing

Persons Completing FIR: Alexandra Ladd Date: 11/19/18 (Revised 1/8/19) Phone: 955-6346

Reviewed by City Attorney

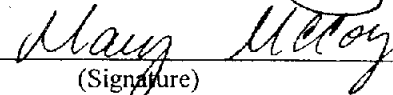


(Signature)

Date:

1/8/19

Reviewed by Finance Director:



(Signature)

Date:

1/8/19

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The Resolution expresses the support of the Governing Body for donating a 5-acre parcel of land located on Siler Road for the purposes of constructing a Low Income Housing Tax Credit (LIHTC) apartment project. The 5-acre parcel is currently part of the City-owned complex and per the Resolution would support at least 60/50 affordable units and a number of market rate units not to exceed 65 total units, designed as live/work spaces for entrepreneurs and other creative professionals.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

_____ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY 19/20	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	
Capital Outlay	\$ _____	_____	_____	\$ 400,000	N	NR		<u>[CIP] Water Housing</u>
Land/ Building	\$ _____	_____	_____	<u>[\$1,524,600]</u> <u>\$1,300,000</u> ✓ (Land Value)	_____	NR		<u>ED Fund</u>
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	
All Other Operating Costs	\$ _____	_____	_____	<u>[\$ 566,072]</u> <u>\$ 522,872</u>	_____	NR		<u>General Fund & Env. Serv. (Enterprise)</u>
Total:	\$ _____			<u>[\$2,490,672]</u> <u>\$2,222,872</u>				

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- To indicate new revenues and/or
- Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY 19/20	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

[Gas Tax	\$ 200,000		\$ _____	_____	_____
Bond] Housing					
Funds					
Water/					
Wastewater			\$ _____	_____	_____
Fund Balance	\$ 200,000				
Total:	\$ 400,000		\$ _____		

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

The project contemplated by the Resolution is proposed to be constructed on five (5) acres of City-owned property and to consist of a minimum of ~~sixty (60)~~ fifty (50) rental units that will comply with the affordability requirements of the Low Income Housing Tax Credit program. An additional number of market rate rental units may be provided, along with outdoor amenities and shared facilities for residents and possibly the wider community. The total construction cost of the project has been estimated at \$13 to \$15 million. Based on the above the total contribution of the City is calculated below:

Land Donation (A)

[The land donated by the City has an estimated fair market value of \$6.00 to \$8.00 per square foot. Assuming a middle value of \$7.00 per square foot, the value of the land donation would be \$1,524,600 (217,800 square feet X \$7.00).] The appraisal from December, 2018 determines a market value of \$1,300,000.

Value of Land Donation:

~~/\$1,524,600/~~

\$1,300,000

Affordable Housing Fee Waivers (B)

City code currently provides for a number of fee waivers for affordable housing construction projects. Assuming that ~~sixty (60)~~ fifty (50) affordable housing units will be constructed, the total fee waivers are detailed below:

Impact Fee Waivers (~~/60/~~ 50 units X \$2,457):

~~/\$ 147,420/~~

\$ 122,850

Building Permit Fees waived (assuming \$10 million attributable to affordable units):

\$ 45,493

Building Plan Review Fees waived (50% of Permit Fees):

\$ 22,747

Secondary Permit Fees waived (estimated electrical, mechanical, plumbing, etc.):

\$ 5,000

Wastewater UEC waived (~~/60/~~ 50 units X \$561):

~~/\$ 33,660/~~

\$ 28,050

Water UEC waived [~~/60/~~ 50 units X (\$2,103 - \$800)]:

~~/\$~~

~~78,180/~~

\$ 65,160

Development Review Fees waived (Assuming \$10 million attributable to affordable units):

\$ 18,000

HOMES Program requirements/Fees waived (estimated):

\$ 50,000

TOTAL Waived Fees/Charges: ~~/\$ 400,500/~~

~~\$267,300~~

Relocation Costs for Existing City Uses (C)

Currently, the site is used as a staging and material storage area for several City divisions/departments: Environmental Services, Traffic, Streets, and Parks and Recreation. These uses will need to be relocated to an adjacent parcel of the City-owned land. The following are the estimated relocation costs, broken down by those costs assumed by the City (\$165,572) and those that are incurred externally to the City's operations and potentially assumed in the development budget (\$97,000):

City Costs

Clean up of site (tipping, hauling, etc.):

\$ 55,000

Preparation of new site (clearing, grubbing, grading):

\$ 25,500

Labor/Equipment required for relocation:

\$ 72,472

Misc. (relocations: equipment, membrane, paint, canopy, etc.):

\$ 12,600

TOTAL City Costs:

~~\$165,572~~

Costs Absorbed by [Project] Developer (not included in City contribution)

Development of new site (fencing, gravel base course, ext. of utilities):

\$ 94,000

Relocation of lighting

\$ 3,000

TOTAL Project Costs:

\$ 97,000

TOTAL Relocation Costs:

\$ 262,572

Other Infrastructure Costs Deeded back to City (D)

On and Off-site Road Improvements :

\$ 200,000

On-site water/wastewater Utility Installation:

\$ 200,000

TOTAL Infrastructure Costs:

~~\$400,000~~

TOTAL CITY CONTRIBUTION (A + B + City Contribution Costs + D):

~~(\$2,490,672)~~

~~\$2,222,872~~

The Resolution does not propose to change existing code provisions related to affordable housing. Therefore in terms of changes in projected revenue, the Affordable Housing Fee waivers, while beneficial by reducing development costs, may be considered revenue/expenditure neutral to the City as they represent the City's current expectations related to affordable housing construction. As such, these waiver amounts are not included in Section C of this report. Further, although beyond the scope of this FIR, the construction of the proposed Project would certainly have wider fiscal benefits to the City through increased construction revenue associated with the market rate segment of the Project and other secondary economic effects of the project's development.

Section D. General Narrative

1. **Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None identified.

2. **Consequences of Not Enacting This Bill/Resolution:**

Are there consequences of not enacting this bill/resolution? If so, describe.

The donation of the parcel and commitment of other possible City resources is integral to putting together a successful application for LIHTC funding. The donation provides the opportunity to win maximum LIHTC application points for a "municipal contribution" by the City's donation of at least 10% of the Project's "Total Development Cost" (TDC). Without at least a 10% municipal contribution, the project's application is not likely to outscore other competitive projects. If LIHTC funding is not awarded, the Arts+Creativity Center contemplated will not be constructed.

3. **Technical Issues:**

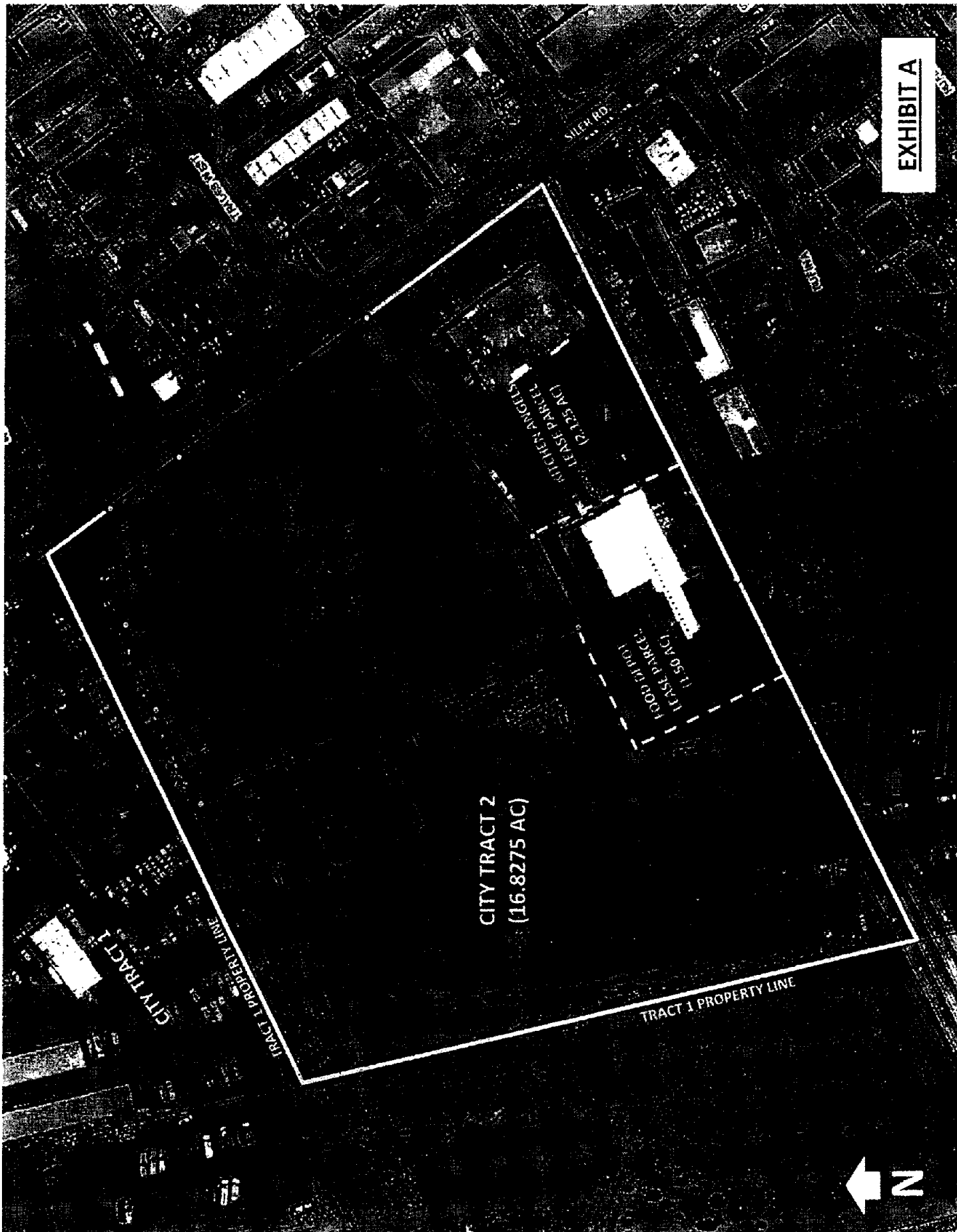
Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None identified.

4. **Community Impact:**

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

Current demographic statistics and rental market data reveal that there is potential shortage of ~~over 2,000~~ 2,400 rental units in Santa Fe. This number is estimated by comparing the number of renters by income category to the number of units rented at levels that are affordable to those same income categories. A project such as the A+CC serves to meet this inventory gap for affordable rental units. It also provides space that is especially designed to support home-occupation-based businesses, and supplemental spaces, potentially for light manufacturing activities, performance-based art, visual displays and related retail. The wider benefit of the Project is a catalyst for redevelopment in the area where, in addition to historically industrial uses, a wider variety of creative uses are appearing. The Project's central location and proximity to transit, trail systems, and nearby amenities place it in an area suitable for redevelopment.



City of Santa Fe
Governing Body
Findings of Fact and Conclusions of Law

Case No. #2013-08

Appellant's Name – Presbyterian Church (U.S.A.), a Corporation

THIS MATTER came before the City of Santa Fe (City) Governing Body (Governing Body) for hearing on March 27, 2013, upon the appeal (Appeal) of Presbyterian Church (U.S.A.) (Appellant) from the January 8, 2013 decision (the Decision) of the City's Historic Districts Review Board (HDRB) designating the main building (Building) at 401 Old Taos Highway as "contributing" and designating the west elevation and the west end of the south elevation as primary facades.

The record on the Appeal (the Record) includes the following documents:

1. The Verified Appeal Petition filed on February 6, 2013;
2. The report of Land Use Department Historic Preservation Division staff dated January 8, 2013;
3. The relevant portion of the minutes of the January 8, 2013 HDRB meeting;
4. Findings of Fact and Conclusions of Law adopted by the HDRB on January 22, 2013 and filed by the City Clerk with the records of the City as Item #13-0036;
5. Santa Fe City Code (SFCC) §14-5.2(E), entitled "Downtown and Eastside Design Standards";
6. Excerpt from the Historic Cultural Properties Inventory (HCPI) Detail Form (Form 2) completed for the Building by the Appellant's representative and showing in ¶ 19 the Building Site Plan;
7. Memorandum dated March 18, 2013 to the Members of the Governing Body from Kelley Brennan, Assistant City Attorney via Geno Zamora, City Attorney, regarding Appeal of the Appellant from the Decision in Case #H-12-101 Designating the Building, with Exhibits A-F;

After conducting a public hearing and having reviewed the Record and heard from the Appellant, City staff and members of the public, the Governing Body hereby FINDS, as follows:

FINDINGS OF FACT

1. The Governing Body reviewed the Record and heard the report of City staff and received testimony and evidence from the Appellant and from members of the public interested in the matter.
2. Pursuant to Santa Fe City Code (SFCC) §14-2.2(F), the Governing Body has the power and authority on appeals of final actions of any Land Use Board to hear *de novo* and decide the matter that is the subject of appeal after giving notice in accordance with the notice provisions of SFCC §14-3.1(H)(4).



3. Pursuant to SFCC §14-3.17(A)(1)(b), final actions of a Land Use Board include a decision made after a public hearing.
4. The Decision is a final action subject to appeal to the Governing Body to hear and decide the matter.
5. Notice of the Appeal was properly given in accordance with the notice provisions of SFCC §14-3.1(H)(4).
6. SFCC §14-5.2(C)(2)(b)(ii) requires that "...the designation of a status shall be based upon an evaluation of data provided through survey or other relevant sources of information and the definitions of "significant," "contributing," or "noncontributing."
7. A "contributing structure" is defined in SFCC §14-12.1 as "[a] structure, located in an Historic District, approximately 50 years old or older that helps to establish and maintain the character of the Historic District...[which] [a]lthough not unique in itself,...adds to the historic associations and/or historic architectural design qualities for which a District is significant [and which...] may have had minor alterations, [but] its integrity remains."
8. A "noncontributing structure" is defined in SFCC §14-12.1 as "[a] structure, located in an Historic District, which is less than fifty years old and/or does not exhibit sufficient historic integrity to establish and maintain the character of the Historic District."
9. The HCPI for the Building prepared by Gayla Bechtol, AIA (Bechtol) indicates that the Building was constructed 1960-1964, that the main entrance was relocated after 1990 from the south elevation to the west elevation, including an infill addition on the south elevation, with further additions after 1968 of a portal and meeting room and a dormitory wing (collectively, the Building Alterations).
10. The Building is located in the Downtown and Eastside Historic District (D/E District) and is approximately 50 years old or older.
11. The Building does not help to establish and maintain the character of the D/E District in that it does not retain a similarity of materials, color, proportion and general detail sufficient to achieve harmony with other historic buildings in the D/E District; specifically, a large number of windows are not deeply recessed and are metal-framed with applied muntins, rather than true divided lites; corners are not rounded; geometrically straight façade lines are used; flat facades are not sufficiently varied by inset or exterior portals, projecting vigas, canales, or the limited use of carved wooden lintels and doors.
12. Based upon the facts found in paragraph 11 above, the Building does not add to the historic associations or historic architectural design qualities for which the D/E District is significant.
13. As a result of the Building Alterations, the Building does not retain a sufficient level of historic integrity.
14. The Building does not meet the definition of "contributing" set out in SFCC §14-12.1.
15. Based upon the facts found in paragraphs 9, 11 and 13 above, the Building meets the definition of "noncontributing" set out in SFCC §14-12.1.

CONCLUSIONS OF LAW

Under the circumstances and based upon the Record and the evidence and testimony submitted at the hearing, the Governing Body CONCLUDES as follows:

1. The Governing Body has the power and authority to hear and decide the matter that is the subject of the Appeal.

2. The Building is noncontributing.

WHEREFORE, IT IS ORDERED ON THE 10th OF APRIL 2013 BY THE
GOVERNING BODY OF THE CITY OF SANTA FE:

That the Appeal is hereby granted.

Daryl Corra
Mayor

4-15-13
Date:

FILED WITH THE CITY CLERK:

Yolanda Y. Vigil
City Clerk

4-15-13
Date:

APPROVED AS TO FORM:

Kelly A. Brennan
Geno Zamora
City Attorney

4/3/13
Date:



EXHIBIT 5

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

David Coss, Mayor

Councilors:

Rebecca Wurzbarger, Mayor Pro Tem, Dist. 2
Patti J. Bushee, Dist. 1
Chris Calvert, Dist. 1
Peter N. Ives, Dist. 2
Carmichael A. Dominguez, Dist. 3
Christopher M. Rivera, Dist. 3
Bill Dimas, Dist. 4
Ronald S. Trujillo, Dist. 4

Memorandum

To: Members of the Governing Body

From: Kelley Brennan *KAB*
Assistant City Attorney

Via: Geno Zamora *GZ*
City Attorney

Re: Appeal of Presbyterian Church (U.S.A) from the
January 8, 2013 Decision of the Historic Districts Review Board
in Case #H-12-101 Designating the Building
at 401 Old Taos Highway as Contributing
and Designating Primary Facades
Case No. #2013-08

Date: March 18, 2013

I. The Appeal

On February 6, 2013 Jennifer Jenkins for JenkinsGavin Design & Development, Inc., agent for the Presbyterian Church (U.S.A.), a Corporation (Appellant) filed a Verified Appeal Petition (Petition) appealing the January 8, 2013 decision of the Historic Districts Review Board (HDRB) designating the main building (Building) at 401 Old Taos Highway (Property) as "contributing" and designating the west elevation and the west end of the south elevation as "primary facades" (the Decision). A copy of the Petition is attached as **Exhibit A**.

II. History of the Case

The Property is located in the Downtown and Eastside Historic District (D/E District) and is improved with the Building, as well as certain other improvements that are not a subject of this appeal.



The Appellant applied for HDRB review of the Building's status pursuant to Santa Fe City Code (SFCC) §14-5.2(C)(2)(c)(ii)

The HDRB held a status hearing on January 8, 2013 (the Hearing). HDRB staff provided the HDRB with a report (Staff Report) briefly describing the Building and its history and recommending that the HDRB designate it as "contributing" and deferring to the HDRB to designate primary facades, citing the south façade facing Paseo de Peralta and the west façade facing Old Taos Highway as possible candidates. A copy of the Staff Report is attached as Exhibit B. The Staff Report cited and attached the "Historic Cultural Properties Inventory"¹ (HCPI) for the Building submitted by the Appellant's representative on the application, Gayla Bechtol, Architect. The HDRB voted at the conclusion of the Hearing to designate the Building as "contributing" and assigned as primary facades the west façade and the west end of the south façade. A copy of the relevant portion of the minutes of the January 8, 2013 meeting is attached as Exhibit C. Findings of Fact and Conclusions of Law embodying the Decision were adopted by the HDRB on January 22, 2013 (Findings). The Findings (Item #13-0036) are attached as Exhibit D.

III. Basis of Appeal

The Appellant claims generally (1) that the HDRB improperly relied on the Building's association with Philippe Register as grounds for designating it as "contributing"; (2) that the HDRB's authority under NMSA 1987 [sic] §3-22-33 extends only to review of "...the erection, alteration and destruction [sic] of those exterior features of buildings and other structures subject to public view from any public street, way or other public place..."; (3) that the HDRB erred in designating the Building as "contributing" because (a) it is less than 50 years old; (b) its historic architectural integrity has been destroyed by three non-historic additions; (c) it's an "unexceptional structure...built in the 1960s and lacking in the age, features, historic integrity and architecturally historic characteristics of buildings...properly designated as contributing..." and (d) it doesn't otherwise meet the definition of contributing..."; (4) that there was insufficient evidence in the record to support the HDRB's finding that the Building is a good example of mid-20th century style, that SFCC §14-5.2 (Historic Ordinance) does not recognize a "mid-20th century Santa Fe style" of architecture and that the SFCC §14-12.1 definitions of noncontributing and contributing do not permit building status to be designated based on whether a building is a good example of "mid-20th century Santa Fe style"; and (5) the HDRB's designation of the Building as contributing is an unacceptable constraint on development contrary to the stated general purpose of the Historic Ordinance to "...promote the economic, cultural and general welfare of the people of the city and ensure the harmonious, orderly and efficient growth and development of the city..." because the Building is unexceptional and no longer serves the purpose for which it was constructed.

¹ The Historic Cultural Properties Inventory is comprised of a Base Form (Form 1) and a Detail Form (Form 2).

IV. Relief Sought

The Appellant asks the Governing Body to vacate the Decision and designate the Building as noncontributing, with no primary facades.

V. Issues Raised by the Appeal; Analysis

The issue on appeal is whether the HDRB's designation of the Building as contributing was supported by substantial evidence on the record and whether the Findings adequately set forth the basis for the Decision².

A. Regulatory Background

The HDRB has authority to designate status under SFCC Section 14-5.2(C)(2)(b)(i) based upon standards set out in SFCC Section 14-5.2(C)(2)(b)(ii)³.

SFCC §14-5.2(C)(2)(b)(ii) requires that "...the designation of a status shall be based upon an evaluation of data provided through survey or other relevant sources of information and the definitions of "significant," "contributing," or "noncontributing."

B. Whether the Building Meets the SFCC §14-12.1 Definition of Contributing

SFCC §12-1 defines a "contributing structure" as "[a] structure, located in an Historic District, approximately 50 years old or older, that helps to establish and maintain the character of the Historic District. Although the structure is not unique in itself, it adds to the historic associations and/or historic architectural design qualities for which a district is significant. The structure may have had minor alterations, however, its integrity remains."

This definition has been historically interpreted as establishing the following five mandatory criteria for designation of a contributing structure:

1. The structure must be located in an Historic District;

Analysis: The Building is located in the D/E District.

² "...the decision-making body should provide a clear statement of what, specifically, [it] believes, after hearing and considering all the evidence, to be the relevant and important facts upon which its decision is based, and a full explanation of why those facts lead it to the decision it makes." *Albuquerque Commons Partnership v. City Council of the City of Albuquerque*, 144 N.M. 99 ; 184 P.3d 411 (2008) (internal citations and quotations omitted).

³ The Appellant claims that the HDRB doesn't have the legal authority to designate status, because the state enabling statute restricts regulations governing historic districts to "the erection, alteration and destruction of those exterior features of buildings and other structures subject to public view..." However, NMSA 1978 §3-22-3 empowers the City to "...adopt and enforce regulations and restrictions within [its historic districts] relating to the erection, alteration and destruction of those exterior features of buildings...subject to public view..." This language must be read in conjunction with federal and other state legislation relating to historic preservation, including the City's designation as a Certified Local Government, and in light of its Charter powers.

2. Be approximately 50 years old or older;

Analysis: According to Ms. Bechtol, the Building "...is not quite 50 years old, [being] finished in 1964." The HCPI, prepared by Ms. Bechtol lists the "Construction Date" as 1960-1964. Even if the 1964 construction completion date of the Building is used to establish the Building's age, it is 49 years old. The standard is not whether it is 50 years old or older, but whether it is "approximately" 50 years old or older. At 49 years, the Building can accurately be described as approximately 50 years old. However, the earlier of the dates, 1960, clearly puts the Building in the "historic" category, at 53 years old. Assuming that the design was completed in 1960 and that construction began sometime between 1960 and 1964, it is fair to assume that the Building is 50 years old or older. In any event, it is indisputably approximately 50 years old or older.

3. Help to establish and maintain the character of the Historic District;

Analysis: The character of the D/E District is delineated in SFCC §14-5.2(E), which establishes the district design standards. These standards recognize "...that a style of architecture has evolved within the city from...1600 to the present characterized by construction with adobe...called 'Old Santa Fe style', and that another style has evolved...called 'Recent Santa Fe style', which is a development from, and an elaboration of the Old Santa Fe style, with different materials and frequently with added decorations..." Recent Santa Fe style is intended "...to achieve harmony with historic buildings by retention of a similarity of materials, color proportion and general detail..." A complete copy of SFCC §14-5.2(E) is attached as **Exhibit E**.

The Spanish Pueblo Revival style Building conforms to "Recent Santa Fe Style" design standards and thus helps to establish and maintain the character of the D/E District. The Building's "dominating effect is...that of adobe construction...", including "...projecting or recessed portales, setbacks or other design elements" on the façades to relieve two-story massing; a "...combined window and door area [on]...publicly visible façade[s] [that does] not exceed 40% of the total area of the façade[s], except for doors and windows located under a portal", with "...no window in a publicly visible façade...located nearer than three...feet from the corner..."; with "[n]o cantilevers...except over projecting vigas, beams, or wood corbels, or as part of the roof treatment..."; with "[n]o less than 80% of the surface area of...publicly visible façade[s]...of...stucco simulating adobe finish...", with publicly visible facades "...of one color...[simulating] a light earth or dark earth color, matte...finish and of relatively smooth texture..." except under portals, where they are "...of contrasting or complimentary colors..."; and with "...windows and doors and portals...of one of the old Santa Fe styles..." and a flat roof with an overhang under 30 inches.

4. Add to the historic associations and/or historic architectural design qualities for which a District is significant; and

Analysis: Given its conformance to the D/E District design standards, the Building clearly adds to the historic architectural design qualities for which the D/E District is significant.

5. Its integrity remains, even where there have been minor alterations.

Analysis: The Building includes three non-historic additions. A copy of a 1990 site plan showing the additions hatched is attached as Exhibit F. Contributing buildings may include minor alterations as long as the fundamental integrity of the building remains⁴. Two of the three alterations to the Building are not publicly visible and consist of small additions in courtyards. The third alteration is the relocation of the main entry from the Paseo de Peralta pedestrian façade to the Old Taos Highway and parking lot façade. The Staff Report describes these alterations as harmonious to the original integrity of the Building.

Appellant characterizes the Building a number of times as “unexceptional”, appearing to believe that unexceptional buildings cannot be designated as contributing. However, the definition of contributing specifically notes that a building need not be “unique in itself”. Arguably, “unexceptional” means “not unique in itself”.

Conclusion: The Building appears to meet the definition of contributing. However, if the Governing Body concludes that the non-historic addition associated with the relocation of the main entrance impaired the Building’s fundamental integrity, then the Building does not meet the definition of contributing.

C. Whether the Building Meets the SFCC §14-12.1 Definition of Noncontributing.

SFCC §12-1 defines a “noncontributing structure” as “[a] structure, located in an Historic District, which is less than fifty years old and/or does not exhibit sufficient historic integrity to establish and maintain the character of the Historic District.”

The Governing Body must find that the Building does not exhibit sufficient historic integrity to establish and maintain the character of the D/E District in order to designate it as noncontributing.

D. Appellant’s Other Claims

The Appellant claims that the HDRB improperly relied on the Building’s association with Philippe Register to establish its contributing status. While the HDRB cited the Building’s association with Register as important, HDRB members in reaching the Decision had before

⁴ SFCC §14-5.2(C)(1)(d) describes as one of the intents of the Historic Districts ordinance that “[n]ew additions...be undertaken in such a manner that if removed in the future, the original form and integrity of the historic property and its environment would be unimpaired.”

them the information contained in the Staff Report and had also viewed the Building. The Decision is clearly based on their understanding that the Building's location, age, design and craftsmanship qualified the Building as contributing. Philippe Register's importance as a mid-20th century Santa Fe architect was noted as a way in which the Building design added to the historic associations of the D/E District. Ms. Bechtol specifically noted that "[t]he significance of [the Building] lies in its connection to the important Santa Fe architect Philippe Register..."

Conclusion: There was sufficient evidence on the record to support the HDRB's designation of the Building as contributing. Philippe Register's design of the Building adds to the historic associations of the D/E District.

The Appellant claims that the HDRB's characterization of the Building as a good example of mid-20th century style was not based on sufficient evidence in the record, that mid-20th century style is not defined in the Historic Ordinance and that contributing status cannot be based on whether a building is a good example of mid-20th century style. Ms. Bechtol specifically noted that Philippe Register "...was respectful of the Santa Fe style of architecture but also inventive, [working] diligently to synthesize the traditional styles with Modern styles of the mid-century." She characterizes the Building as "...well-designed...but not a significant building in Mr. Register's career..." noting "...the humanistic planning of the courtyards and natural light and ventilation from every side."

SFCC §14-5.2(C)(1)(a) states as a purpose and intent of the City's regulation of significant and contributing structures in the historic districts that "[e]ach structure be recognized as a physical record of its time, place and use." Thus, although the Historic Ordinance doesn't specifically recognize mid-20th century style, it does recognize that it is as important to protect 1960s buildings as it is to protect buildings from all earlier eras, especially when they conform to historic district design standards, while embodying elements of design associated with their specific time. The mid-20th century interpretation of Santa Fe style is reflected in the primary facades, with both traditional and innovative elements. The "...humanistic planning of the courtyards and natural light and ventilation from every side" noted by Ms. Bechtol embodies both local style in the use of courtyards and modern ideas in the emphasis on natural light and ventilation.

Conclusion: There was sufficient evidence on the record for the HDRB to conclude that the Building was a good example of mid-20th century style and a physical record of its time and place worthy of contributing status.

The Appellant claims that the designation of the Building as contributing is an unacceptable constraint on future development contrary to the Historic Ordinance's stated purpose "...to promote the economic, cultural and general welfare of the people of the city and ensure the harmonious, orderly and efficient growth of the city..." However, the Building's designation as contributing doesn't prohibit or even unreasonably limit future development. For example, the Historic Ordinance permits additions to contributing buildings, including

additions that are one-story higher than the existing structure. While certain requirements apply, e.g., additions must be set back 10 feet from primary facades and cannot exceed 50% of the existing footprint, even these requirements can be modified with an exception. Buildings with contributing status can even be demolished if they meet certain criteria. The Appellant cites the need to "...*modify or replace...structures like [the Building] because they no longer serve the purposes for which they were originally designed and constructed.*" This ignores the possibility of adaptive re-use. A project currently underway in the City, the conversion of the former St. Vincent's Hospital building, a contributing building, to a hotel use, with additions, all approved by the HDRB, demonstrates that buildings with contributing status can be redeveloped in conformance with Historic Ordinance requirements.

E. Assignment of Primary Elevations.

The HDRB voted at the conclusion of the Hearing to designate the west elevation and the west end of the south elevation as "primary facades"⁵. Ms. Bechtol testified at the Hearing that "...*if [the Building] was designated contributing, the west façade would be the primary façade and especially the southwest corner.*" Thus the Applicant's representative agrees, at least in part, with the HDRB's designation of primary facades. Nevertheless, while the Applicant did not appeal the assignment of primary facades, the Governing Body may wish, in the event that it denies the appeal, to consider the designation of primary facades.

HDRB staff will present at the appeal hearing photographs of the Building and the primary facades assigned by the HDRB for the consideration of the Governing Body.

VI. Conclusion

If the Governing Body concludes that the Building meets the definition of contributing, it should deny the appeal and direct staff to draft findings of fact and conclusions of law reflecting its decision. The Governing Body may also assign primary facades different from those assigned by the HDRB.

If the Governing Body concludes that that the Building meets the definition of noncontributing, it should grant the appeal and direct staff to draft findings of fact and conclusions of law reflecting its decision.

⁵ SFCC §14-12.1 defines a "primary façade" as "[o]ne or more principal faces or elevations of a structure with features that define the character of the structure's architecture."

Plaza del Monte: Decision Tree

