



# Agenda

Finance Committee Meeting  
March 2, 2009 – 5:15 pm  
City Council Chambers

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA

CITY CLERK'S OFFICE

DATE 2/27/09 TIME 2:00pm

SERVED BY Uplande Brown

RECEIVED BY [Signature]

## **MATTERS FROM THE COMMITTEE:**

5. UPDATE ON INTERNATIONAL CONFERENCE ON CREATIVE TOURISM (TOM MAGUIRE)

## **CONSENT AGENDA:**

6. REQUEST FOR APPROVAL OF QUARTERLY BUDGET ADJUSTMENTS FOR QUARTER ENDING DECEMBER 31, 2008 (CAL PROBASCO)
7. REQUEST FOR APPROVAL OF ADDITIONAL DEPARTMENTAL BUDGET REDUCTION ADJUSTMENTS FOR FY 2008/2009 (CAL PROBASCO)
8. REQUEST FOR APPROVAL OF EXCLUSIVE AGREEMENT – PHOTO RED LIGHT AND SPEED ENFORCEMENT PROGRAM; REDFLEX TRAFFIC SYSTEMS (POLICE CHIEF ERIC JOHNSON AND CAPTAIN ROBBIN)
9. REQUEST OF AMENDMENT NO 4 TO PROFESSIONAL SERVICES AGREEMENT – ADVERTISING SERVICES FOR SANTA FE CONVENTION AND VISITORS BUREAU; VAUGHN WEDEEN CREATIVE, INC. (KEITH TOLER)
10. REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – MEETING FACILITATION AND PROCESS MANAGEMENT FOR LONG RANGE PLANNING DIVISION; JENKINS GAVIN DESIGN AND DEVELOPMENT, INC. (REED LIMING)
11. REQUEST FOR APPROVAL OF CHANGE ORDER NO. 3 – CERRILLOS ROAD RECONSTRUCTION PROJECT PHASE 11A – RICHARDS AVENUE TO CIELO COURT – NEW ITEMS NOT INCLUDED IN ORIGINAL BID; A.S. HORNER, INC. (ERIC MARTINEZ)



# Agenda

Finance Committee Meeting  
March 2, 2009 – 5:15 pm  
City Council Chambers  
Page 2

12. SILER ROAD EXTENSION PROJECT:

- A. REQUEST FOR APPROVAL OF GRIP2 COOPERATIVE PROJECT AGREEMENT – 2007 LEGISLATIVE APPROPRIATIONS FOR SILER ROAD EXTENSION PROJECT; NEW MEXICO DEPARTMENT OF TRANSPORTATION (DESIRAE LUJAN)

- 1. REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND

- B. REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – 2007 LEGISLATIVE APPROPRIATIONS FOR GRIP2 SILER ROAD EXTENSION PROJECT; NEW MEXICO FINANCE AUTHORITY (DESIRAE LUJAN)

13. REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – PRAIRIE DOG RELOCATION SERVICES AT CITY PARKS AND MUNICIPAL AIRPORT; ECO SOLUTIONS (ROBERT WOODS)

- A. REQUEST FOR APPROVAL OF BUDGET INCREASE – CIP FUNDS

14. REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – REPLACE FOUR SEPARATE FAA LEASE AGREEMENTS AT THE SANTA FE MUNICIPAL AIRPORT; FEDERAL AVIATION ADMINISTRATION (JIM MONTMAN)

- A. REQUEST FOR APPROVAL OF AMENDMENT NO. 7 TO LEASE AGREEMENT – SEVEN (7) ADDITIONAL PAID PARKING SPACES AT SANTA FE MUNICIPAL AIRPORT; SANTA FE AIRPORT GRILL (JIM MONTMAN)

15. REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE – LOCATED NORTHERLY PORTION OF GOVERNOR MILES ROAD; CROWNE SANTA FE, LLC (EDWARD VIGIL)

- A. REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE – LOCATED SOUTHERLY PORTION OF GOVERNOR MILES ROAD; LAS SOLERAS OESTE, LTD CO. (EDWARD VIGIL)

16. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 OF LEASE AGREEMENT – RIGHTS OF USAGE AND REMOVING A TWO ACRE PARCEL FROM ORIGINAL LEASE AT CAMINO ENTRADA; NEW MEXICO DEPARTMENT OF PUBLIC SAFETY (EDWARD VIGIL)

17. REQUEST FOR APPROVAL OF PURCHASE OF SCHOOL DISTRICT PROPERTY/LOAN TERMS – MASTER PLAN FOR NORTHWEST QUADRANT; SANTA FE PUBLIC SCHOOLS (KATHY MCCORMICK)



# Agenda

Finance Committee Meeting  
March 2, 2009 – 5:15 pm  
City Council Chambers  
Page 3

18. REQUEST FOR APPROVAL OF A RESOLUTION ESTABLISHING AN ADVISORY WORKGROUP CONSISTING OF CITY DEPARTMENTS, SURROUNDING LOCAL GOVERNMENTS, STATE AGENCIES, FEDERAL AGENCIES, PRIVATE SECTOR AND NON-PROFIT ORGANIZATIONS FOR THE PURPOSE OF ADVISING THE CITY OF SANTA FE OFFICE OF EMERGENCY MANAGEMENT REGARDING THE ONGOING PREPARATION, IMPLEMENTATION, EVALUATION AND REVISION OF THE CITY OF SANTA FE EMERGENCY MANAGEMENT PROGRAM (COUNCILOR TRUJILLO) (JOYCE PURLEY)

**Committee Review:**

Public Safety (Approved)  
Public Works (Approved)  
City Council (Scheduled)

February 17, 2009  
February 23, 2009  
March 11, 2009

***Fiscal Impact – No***

19. REQUEST FOR APPROVAL OF A RESOLUTION WITHDRAWING FROM THE JOINT CITY COUNTY DIVISION OF EMERGENCY MANAGEMENT (COUNCILOR TRUJILLO) (JOYCE PURLEY)

**Committee Review:**

Public Safety (Approved)  
Public Works (Approved)  
City Council (Scheduled)

February 17, 2009  
February 23, 2009  
March 11, 2009

***Fiscal Impact – No***

20. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SECTIONS 14-3.14 AND 14-5.2 (B) SFCC IN ORDER TO ESTABLISH PROCEDURES FOR THE DEMOLITION OF LAND MARK STRUCTURES AND TO REQUIRE MINIMUM MAINTENANCE OF LANDMARK STRUCTURES; AND MAKING RELATED CHANGES (COUNCILORS CALVERT, BUSHEE AND ROMERO) (JEANNE PRICE)

**Committee Review:**

Historic Design Review (Approved)  
Archaeological Review (Approved)  
Public Works (Approved)  
City Council (Request to Publish)  
City Council (Public Hearing)

January 27, 2009  
February 5, 2009  
February 23, 2009  
March 11, 2009  
April 8, 2009



# Agenda

Finance Committee Meeting  
March 2, 2009 – 5:15 pm  
City Council Chambers  
Page 4

21. REQUEST FOR APPROVAL OF A RESOLUTION AMENDING RULE 9.20 OF THE CITY OF SANTA FE *PERSONNEL RULES AND REGULATIONS* SO THAT CITY EMPLOYEES WHO ARE CANDIDATES FOR POLITICAL OFFICE MAY TAKE ANNUAL LEAVE DURING A POLITICAL CAMPAIGN (COUNCILOR DOMINGUEZ) (KRISTINE KUEBLI)

**Committee Review:**

City Council (Scheduled)

March 11, 2009

***Fiscal Impact – No***

22. REQUEST FOR APPROVAL OF A RESOLUTION AUTHORIZING STAFF TO CONTINUE CHARGING A REDUCED ANNUAL FEE FOR DOWNTOWN TOUR COMPANIES (COUNCILOR ORTIZ) (BILL HON)

**Committee Review:**

Public Works (Denied)

City Council (Scheduled)

February 23, 2009

March 11, 2009

***Fiscal Impact – Yes***

***END OF CONSENT AGENDA***

**DISCUSSION:**

23. REQUEST FOR APPROVAL OF PROPOSED CHANGES TO LOCAL PREFERENCE CERTIFICATION REQUIREMENTS: LOCAL PREFERENCE CERTIFICATION FORM SECTION 15.4 OF THE CITY OF SANTA FE PURCHASING MANUAL (ROBERT RODARTE)
24. OTHER FINANCIAL INFORMATION
25. ADJOURN

Interpreter for hearing impaired is available through City Clerk's Office upon 5 days notice.

**SUMMARY OF ACTION  
FINANCE COMMITTEE MEETING  
Monday, March 2, 2009**

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE</u></b>
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	1
APPROVAL OF CONSENT AGENDA	Approved [amended]	2
CONSENT AGENDA LISTING		2-4
<b><u>MATTERS FROM THE COMMITTEE</u></b>		
UPDATE ON INTERNATIONAL CONFERENCE ON CREATIVE TOURISM	Information/discussion	4-5
<b><u>CONSENT CALENDAR DISCUSSION</u></b>		
REQUEST FOR APPROVAL OF EXCLUSIVE AGREEMENT – PHOTO RED LIGHT AND SPEED ENFORCEMENT PROGRAM; REDFLEX TRAFFIC SYSTEMS	Approved [amended]	5-16
REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – ADVERTISING SERVICES FOR SANTA FE CONVENTION AND VISITORS BUREAU; VAUGHN WEDEEN CREATIVE, INC.	Approved	16-18
REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – MEETING FACILITATION AND PROCESS MANAGEMENT FOR LONG RANGE PLANNING DIVISION; JENKINS GAVIN DESIGN AND DEVELOPMENT, INC.	Postponed to 03/16/09	19
REQUEST FOR APPROVAL OF PURCHASE OF SCHOOL DISTRICT PROPERTY/LOAN TERMS – MASTER PLAN FOR NORTHWEST QUADRANT; SANTA FE PUBLIC SCHOOLS	Approved [amended]	19-22

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE</u></b>
<b>REQUEST FOR APPROVAL OF A  RESOLUTION AMENDING RULE 9.20 OF  THE CITY OF SANTA FE PERSONNEL  RULES AND REGULATIONS SO THAT  CITY EMPLOYEES WHO ARE CANDIDATES  FOR POLITICAL OFFICE MAY TAKE  ANNUAL LEAVE DURING A POLITICAL  CAMPAIGN</b>	<b>Approved [amended]</b>	<b>22-23</b>
***** <b>END OF CONSENT CALENDAR DISCUSSION</b> *****		
<b><u>DISCUSSION</u></b>		
<b>REQUEST FOR APPROVAL OF PROPOSED  CHANGES TO LOCAL PREFERENCE  CERTIFICATION REQUIREMENTS; LOCAL  PREFERENCE CERTIFICATION FORM,  SECTION 15.4 OF THE CITY OF SANTA FE  PURCHASING MANUAL</b>	<b>Approved [amended]</b>	<b>23-26</b>
<b>OTHER FINANCIAL INFORMATION</b>	<b>None</b>	<b>26</b>
<b>ADJOURNMENT</b>		<b>27</b>

**MINUTES OF THE  
CITY OF SANTA FE  
FINANCE COMMITTEE  
Monday, March 2, 2009**

**1. CALL TO ORDER**

A meeting of the City of Santa Fe Finance Committee was called to order by Chair Matthew E. Ortiz, at approximately 5:15 p.m., on Monday, March 2, 2009, in the Council Chambers, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

**2. ROLL CALL**

**MEMBERS PRESENT:**

Councilor Matthew E. Ortiz, Chair  
Councilor Christopher Calvert  
Councilor Miguel Chavez  
Councilor Carmichael A. Dominguez  
Councilor Rebecca Wurzbarger

**OTHER COUNCILORS ATTENDING:**

Councilor Ronald S. Trujillo

**OTHERS ATTENDING:**

David Millican, Finance Director  
Yolanda Green, Finance Division  
Melessia Helberg, Stenographer.

There was a quorum of the membership in attendance for the conducting of official business.

**NOTE: All items in the Committee packets for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Finance Department.**

**3. APPROVAL OF AGENDA**

**MOTION:** Councilor Calvert moved, seconded by Councilor Chavez, to approve the agenda, as presented.

**VOTE:** The motion was approved on a voice vote. [Absent: Chair Ortiz]

#### **4. APPROVAL OF CONSENT AGENDA**

**MOTION:** Councilor Chavez moved, seconded by Councilor Calvert, to approve the following Consent Agenda as amended.

**VOTE:** The motion was approved unanimously on a voice vote [Absent: Chair Ortiz].

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#### **CONSENT AGENDA**

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- 6. REQUEST FOR APPROVAL OF QUARTERLY BUDGET ADJUSTMENTS FOR QUARTER ENDING DECEMBER 31, 2008. (CAL PROBASCO)**
- 7. REQUEST FOR APPROVAL OF ADDITIONAL DEPARTMENTAL BUDGET REDUCTION ADJUSTMENTS FOR FY 2008/2009. (CAL PROBASCO)**
- 8. *[Removed for discussion by Councilor Dominguez]***
- 9. *[Removed for discussion by Councilor Calvert]***
- 10. *[Removed for discussion by Chair Ortiz]***
- 11. REQUEST FOR APPROVAL OF CHANGE ORDER NO. 3 – CERRILLOS ROAD RECONSTRUCTION PROJECT PHASE 11A – RICHARDS AVENUE TO CIELO COURT – NEW ITEMS NOT INCLUDED IN ORIGINAL BID; A.S. HORNER, INC. (ERIC MARTINEZ)**
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  - A. REQUEST FOR APPROVAL OF GRIP2 COOPERATIVE PROJECT AGREEMENT – 2007 LEGISLATIVE APPROPRIATIONS FOR SILER ROAD EXTENSION PROJECT; NEW MEXICO DEPARTMENT OF TRANSPORTATION (DESIRAE LUJAN)**
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- A. REQUEST FOR APPROVAL OF AMENDMENT NO. 7 TO LEASE AGREEMENT – SEVEN (7) ADDITIONAL PAID PARKING SPACES AT SANTA FE MUNICIPAL AIRPORT; SANTA FE AIRPORT GRILL. (JIM MONTMAN)
15. REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE – LOCATED NORTHERLY PORTION OF GOVERNOR MILES ROAD; CROWNE SANTA FE, LLC. (EDWARD VIGIL)
- A. REQUEST FOR CONCEPT APPROVAL FOR SALE OF REAL ESTATE – LOCATED SOUTHERLY PORTION OF GOVERNOR MILES ROAD; LAS SOLERAS OESTE, LTD. CO.
16. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 OF LEASE AGREEMENT – RIGHTS OF USAGE AND REMOVING A TWO ACRE PARCEL FROM ORIGINAL LEASE AT CAMINO ENTRADA; NEW MEXICO DEPARTMENT OF PUBLIC SAFETY. (EDWARD VIGIL)
17. *[Removed for discussion by Councilor Calvert]*
18. REQUEST FOR APPROVAL OF A RESOLUTION ESTABLISHING AN ADVISORY WORKGROUP CONSISTING OF CITY DEPARTMENTS, SURROUNDING LOCAL GOVERNMENTS, STATE AGENCIES, FEDERAL AGENCIES, PRIVATE SECTOR AND NONPROFIT ORGANIZATIONS FOR THE PURPOSE OF ADVISING THE CITY OF SANTA FE OFFICE OF EMERGENCY MANAGEMENT, REGARDING THE ONGOING PREPARATION, IMPLEMENTATION, EVALUATION AND REVISION OF THE CITY OF SANTA FE EMERGENCY MANAGEMENT PROGRAM (COUNCILOR TRUJILLO). (JOYCE PURLEY) Committee Review: Public Safety (Approved) February 17, 2009; Public Works (Approved) February 23, 2009; and City Council (Scheduled) March 11, 2009. Fiscal Impact – No.
19. REQUEST FOR APPROVAL OF A RESOLUTION WITHDRAWING FROM THE JOINT CITY/COUNTY DIVISION OF EMERGENCY MANAGEMENT (COUNCILOR TRUJILLO). (JOYCE PURLEY). Contract Review: Public Safety (Approved) February 17, 2009; Public Works (Approved) February 23, 2009; and City Council (Scheduled) March 11, 2009. Fiscal Impact – No.
20. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SECTIONS 14-3.14 AND 14-5.2(B) SFCC IN ORDER TO ESTABLISH PROCEDURES FOR THE DEMOLITION OF LANDMARK STRUCTURES AND TO REQUIRE MINIMUM MAINTENANCE OF LANDMARK STRUCTURES; AND MAKING RELATED CHANGES (COUNCILORS CALVERT, BUSHEE AND ROMERO). (JEANNE PRICE). Committee Review: Historic Design Review (Approved) January 27, 2009; Archaeological Review (Approved) February 5, 2009; Public Works (Approved) February 23, 2009; City Council (Request to Publish) March 11, 2009; and City Council (Public Hearing) April 8, 2009.
21. *[Removed for discussion by Councilor Calvert]*

22. **REQUEST FOR APPROVAL OF A RESOLUTION AUTHORIZING STAFF TO CONTINUE CHARGING A REDUCED ANNUAL FEE FOR DOWNTOWN TOUR COMPANIES (COUNCILOR ORTIZ). (BILL HON) Committee Review: Public Works (Denied) February 23, 2009; and City Council (Scheduled) March 11, 2009. Fiscal Impact – Yes.**

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**END OF CONSENT AGENDA**  
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**MATTERS FROM THE COMMITTEE**

**5. UPDATE ON INTERNATIONAL CONFERENCE ON CREATIVE TOURISM. (TOM MAGUIRE)**

Tom Maguire presented information from the materials in the packet, after presenting a brief DVD prepared by Joe Abeyta and staff. Please see Mr. Maguire's Memorandum of March 2, 2009, for specifics of this presentation.

Mr. Maguire said from the very beginning Santa Fe accepted the challenge from UNESCO to present a conference of this size and magnitude. He said the goal was to have a conference like no other with a very special feel, and something people from around the world would find to be sufficiently different that they would want to attend and would be pleased with what they found when they arrived. He believes those goals were achieved to a large extent. He said creativity is defined as experiential tourism – the essence of culture and what a community can bring forth.

Mr. Maguire said, one result of this conference is that the people in Nagoya, Japan, invited us to send a representative to work on a specific workshop. He said Nagoya has struggled with issues of authenticity, and they put together a workshop to design items which could be sold to tourists but did not "speak down" to the tourist. He said Michael Namingha, a member of the City's Arts Commission, and a member of the Namingha family of artists, was invited to travel to Nagoya to participate, and asked Mr. Namingha to speak about that experience. Mr. Maguire said Nagoya paid all of Mr. Namingha's expenses to participate in that workshop.

Michael Namingha said he spent a week in Nagoya, working with 16 different university students from around the world – Sweden, Korea, Taiwan, Japan. There were three representatives from UNESCO Cities – Xingxing, China, Aswan Egypt and Santa Fe, New Mexico Cities. He said they were trying to create a souvenir which is authentic for Nagoya, noting this was done through field research throughout the City in trying to find out what is unique to Nagoya. He said they did this field research for two days and then came back, formulated their ideas, and the different teams created different items. One of the teams that worked with food in Nagoya created a little box which emits the scent of miso soup. The group also did a telescope because Nagoya was the first city in the world to send a goldfish into outer space on the Space Shuttle Columbia, and when you looked in the telescope you could see the goldfish floating around. Mr. Namingha said he spoke with a woman there, Julia, who is thinking about having this same project for Santa Fe.

Councilor Chavez spoke about the 400-year history of Santa Fe, and recognized that the Spanish/European settlers turned the Indian world upside down. He said we're talking about cultural and heritage components and how to market those as being authentic. He noted the Native Americans have been dealing with this issue for many years, and there is a statute protecting that. He said it is interesting that UNESCO recognizes the components here.

Councilor Chavez said the survey done for the new Community Convention Center indicates that visitors are looking for handmade items, and we hope those would be authentic, and through some process, would be authenticated and branded. He suggested that we take this to the next level. Councilor Chavez quoted from page 5 of the packet, "Central to both of these definitions are hands on experiences which are creative and authentic." It's an authentic experience, interaction between people and he would like these goods to be branded so says to the public this is an authentic product.

*Chair Ortiz arrived at the meeting*

Councilor Chavez said we had some successes during this four-day window, and asked what we can do to stretch this out, and keep the mini markets going on a regular basis. He said the Community Gallery should play a role in showcasing the 400 year history and the traditional work which were influenced by the Spanish and Europeans, as well the Native American and contemporary components which make Santa Fe an art center. He said the City adopted a CAT Plan, and a lot of what we're going here is building on some of the initiatives we've already implemented which is good. He noted the Council adopted Resolution 2006-60 which brought forward the discussion with regard to authenticity and what the City could do to structure a program in partnership with the museum and the State Economic Development Department. He hopes we can move forward in this direction to build upon what has been done. He said the Report is well done, and touched on those areas in which we are interested.

Councilor Chavez said the total expenses were 500,000, noting an asterisk on the \$5,000 from Department of Tourism. He asked if we have received all anticipated funds, or are there some things still pending.

Mr. Maguire said the \$8,000 has been received, and he has billed UNESCO for the final \$2,000, and the \$5,000 has been billed and is expected to be paid by the Tourism Department.

#### **CONSENT CALENDAR DISCUSSION**

#### **8. REQUEST FOR APPROVAL OF EXCLUSIVE AGREEMENT – PHOTO RED LIGHT AND SPEED ENFORCEMENT PROGRAM; REDFLEX TRAFFIC SYSTEMS. (POLICE CHIEF ERIC JOHNSON AND CAPTAIN ROBBIN)**

Councilor Dominguez believes there a safety value to this program, and that it could change driver habits and decrease traffic accidents, freeing police to do things other than enforcement. He has questions about what's happening at the Legislature, and if that passes, if we need to amend the current ordinance.

Captain Robbin said SB519 does impact the outcome of some of the provisions of the ordinance. The first is that the State, after the vendor is paid, will receive 50% of the revenue obtained from the program, which would require a change in the Ordinance.

Councilor Dominguez asked if there is an indication that we should delay this to see what happens in the Legislature. He asked, since we have to amend the ordinance, if we should wait for that outcome.

Captain Robbin said the bill would impact the money the City would receive from the program, although this was established as a public safety benefit. He said whether or not the bill passes, the Department is committed to public safety and reducing crashes, and will go forward with the ordinance.

Councilor Dominguez said the Public Works Committee approved the contract after deleting language in Exhibit B dealing with the footnote which says the City will pay the top tier rates for the first 90 citations per unit per month, noting this is on page 25 of 32.

Captain Robbin said the one footnote which remains is with the use of the speed vehicle, noting the other four footnotes were deleted.

Councilor Dominguez said he wants to be sure he understands the footnote which says, "The city will pay the top tier rate for the first 90 paid citations per unit/month." He asked if this means even if there is one citation, we will pay for 90 citations.

Captain Robbin said he doesn't know.

Councilor Dominguez said Chief Johnson's Memorandum of March 4, 2008, indicates that the City has negotiated this contract, so he hopes the City and the Department have some answers to this.

Captain Robbin said he did consult with the City Attorney's office, but he has no legal authority to write the contract, and has to rely on counsel and the vendor.

Councilor Dominguez asked again if the City understands the meaning of this provision, or does this need to be clarified. He said his interpretation is that this is a potential of \$1.3 million to be paid to the contractor. He wants to be sure the City is clear and understands the meaning of this clause.

Frank Katz, City Attorney, said there are different rates for citations depending on the number. This says simply that it is per unit per month, and that each month you start again. If there is one citation that month, you would pay \$48.

Councilor Dominguez said then we won't have to pay \$48 times 90, and Mr. Katz said no.

Councilor Dominguez would like further clarification in the contract if this is the case.

Councilor Dominguez said, regarding #10 of the Business Assumptions, there is a flat fee of \$4,870 a month, but he understood that provision was deleted at one of the Public Safety Meetings. He

quoted from the contract, "In the event a System is required to be taken out of service by the customer or is unable to enforce the red light or speed fractions for the intersection due the construction initiated by the Customer, a flat fee of \$4,870 per month will be paid to Redflex by the customer." He understood this was supposed to be removed. He asked again if the Police Department has reviewed this contract to see if it has been written in the best interest of the City of Santa Fe.

Captain Robbin said he read the contract several times, but he's not versed on every aspect of contract law, and he has questions on the contract as well.

Mr. Katz said the contract was modified to the way it reads now. Originally, there was to be a flat fee to be prorated, but would be prorated for the number of days it was out of service. This was changed to say that it applies to those occasions, excluding those which have been identified to Redflex for future construction projects, and it doesn't apply where the construction will last more than 30 days. If the City takes an intersection out of service which it hasn't identified to Redflex for less than 30 days, then the City would pay the pro rata portion. However, if the City was going to do a major rebuild of an intersection which would take it out of service for more than 30 days, this does not apply. If it is an intersection which has been identified to Redflex, it does not apply.

Councilor Dominguez wants to be sure we are all clear what that means, and that the communication happens between the Police Department and Redflex.

Councilor Dominguez said he believes there is a cost associated with that, and as he stated in a previous communication, this is some way an inconvenience to the City. He asked if the City decides in the next year that it doesn't like the Program, for reasons justified or not, what is the City's way out of the contract without cost.

Mr. Katz said the way out without cost is already in the contract, and all the Council would have to do is to repeal the ordinance.

Mr. Dominguez asked him to cite this provision in the contract.

Mr. Katz said the contract provides for termination if the State statute or ordinance is amended to prohibit or substantially change the operation, so repealing it would substantially change the operation of the system.

Councilor Dominguez said then the City would have to amend the ordinance to repeal it.

Mr. Katz said the Governing Body would have to take action on the ordinance which is a "get out of contract free card," for the Council.

Councilor Dominguez said the ordinance has to go before the Governing Body to amend it, but there's no guarantee that amendment would happen.

Mr. Katz said the Governing Body would have to take action to do anything on the contract.

Councilor Dominguez said he is looking for something in the program which doesn't require legislative approval, and it sounds as if there is no administrative approval in the contract. He said the Governing Body would have to be told/sold by the administration that we need to repeal the ordinance.

Mr. Katz said he doesn't think you would want the administration to be terminating contracts, because the Council approves contracts. He doesn't think you want to empower "us" to simply take action to terminate a contract, and believes that they would wait for Council policy guidance.

Councilor Dominguez said if the administration's position was to terminate, the administration would have to convince the Governing Body to terminate

Mr. Katz said we would present the issue and it would be up to the Governing Body to decide the policy, yes.

Councilor Dominguez asked how the success of the program will be measured, noting he has questions regarding baseline data and performance measures.

Captain Robbin said, "The company has agreed to put an 8% reduction of ticketable violations within a 12-month period. They would come out, we would relook at the intersections for violations, and look at those within a 12-month period as a success ratio."

Captain Robbin said he told Mr. Katz that this was something "I would not put in the contract, and that's when I came up with the in-house 8%, 16% and 25% over three years." He said at the time he talked to Redflex they weren't willing to put any kinds of numbers in the contract to refer to performance based data. He said since that time, Redflex has agreed, within 12 months after the installation of the equipment, "for an 8% decrease in the violations issued, not in the crashes, but in violations issued, and that's something we could look at as performance data." He said this is just an 8% decrease in violations.

Councilor Dominguez said this is different from what was presented to the Council before we decided to go to the STOP program. He said one of the things which appealed to him, were statements made by various people that this could create a reduction of up to 40%. He said 8% and 25% are a lot different from 40%. He asked if it is the 40% we were sold on, or is it the 8% and 25% which are being presented.

Captain Robbin the 8%, 25% and 40% was for reduction in crashes or ticketable violations, and "that was looked at across the board to all the cities and saying that those numbers could be established, that every municipality and every system is different, but that those numbers have been achieved out there in other municipalities. And, although it is certainly possible here, again, every city is different. And, so even though we believe that on our performance data in-house, that we can look at 8% reduction, 16% and 25% as I sent you, over a three period to use in-house. The company is willing to look at 8% in ticketable reduction as a positive step for the program."

Councilor Dominguez reiterated that he believes there is some safety value to this, but it's being given to a little bit differently. He said 40% is significantly different from 25%, although the 25% is a step in the right direction. He said now it's 25% not 40%.

Councilor Dominguez said he believes including performance measures in a contract is not uncommon. He believes we need to be able to "hold their feet to the fire" if the program doesn't live up to its claim, and ask the company to put their "money where their mouth is." He said one way to do this is to include performance clauses, whether achieved in the first year or over the next 3-5 years, so it becomes more than just an opinion and it becomes factual, based on data. He said without the data, it primarily is an opinion. He asked the City's position, especially given some of the things which have happened in Albuquerque.

Captain Robbin reiterated that the company is willing to include 8% reduction in ticketable offenses in the contract. He said we can use the standard he proposed, 8-16-25% in-house, and if it doesn't perform to those measures, then we have a cause for the termination and we can amend the ordinance and walk away.

Councilor Chavez referred to Exhibit D on page 25 of 32, with regard to compensation and pricing, "Commencing on the install date of this Agreement, the Customer shall be obligated to pay to Redflex a variable Per Paid Citation" fee..." He asked if these rates are consistent with what is in the contract.

Captain Robbin said those are the rates which are in the contract.

Responding to Councilor Chavez, Captain Robbin said the City is asking for one mobile unit at this time, and currently we are looking at Redflex staffing the unit since it is their equipment.

Councilor Chavez asked if there is a difference between citations issued and citations dismissed.

Captain Robbin said a certain number of citations will be reviewed and possibly will be dismissed, noting that each citation has to be reviewed by an officer as part of the checking system to make sure it is a violation. He said once a citation is issued, the individual has the option of a hearing or to remit the violation, noting community service and teen court would be allowed in lieu of paying. He said the City is responsible only for the citations which we collect.

Councilor Chavez said if this works, it may change the driving habits, and asked whose performance we are evaluating – enforcement or people driving the cars. He said this will generate \$1 million annually if it works, and he hopes this changes peoples driving habits.

Chair Ortiz noted there is no FIR in the packet.

Captain Robbin said an FIR was done and accompanied the original presentation. It was estimated to produce approximately \$100,000 per month, but if the State's bill passes, then that would be about \$50,000 to come back to address public safety issues, noting the cost of the hearing officers will be

paid out of that. He said there is no request for additional personnel at this time to administer the program, saying all costs of the program would be paid from the revenues from the program.

Responding to Councilor Chavez, Mr. Millican said the revenues will be accounted for in a separate line item and will be built into the budget.

Responding to Councilor Chavez, Captain Robbin said if the State's bill passes, there will be a fine cap of \$100 per violation which also would lower the revenue substantially. He said our fines are based on those of our Municipal Court which tiers for 2<sup>nd</sup> and 3<sup>rd</sup> violations.

Councilor Dominguez said a lot of this is just simple math. He said there is never a time where the City has negative revenue, unless the State takes its share before the Contractor. He said the more violations, the more money the City makes, and the less violations, the more the vendor makes. He said if we assume 1,300 violations under the current structure it will generate \$67,000 to the City and \$39,000 to the vendor. He said if the State law passes with the cap, the vendor would make \$39,000, the State \$28,000 and the City \$28,000.

Councilor Dominguez said there is nothing in writing which indicates what Redflex is willing to do in terms of the baseline data. He wants to know the source of the baseline data. He said conditions have changed because of the Rail Runner in the City. He said there is a double dilemma zone at Cerrillos and St. Francis. He said you have to determine whether or not you can get through the intersection without a violation, and before that you have to determine whether you will be stopping in the no parking zone. He said if the baseline data are coming from those analyses, he doesn't think that is right. He said another factor is that Cerrillos Road is changing, and some of those improvements were made to change driver habits and to make the road safer. He asked the rationale behind the 8% and what we will use as baseline data.

Captain Robbin said his proposal is that we use 8% as the baseline for reduction of crashes at the end of a 12-month period, 16% at the end of the second year based on the first year.

Councilor Dominguez said then we will be citing people during the year while we establish baseline data, and believes that should already exist to justify the program.

Captain Robbin said, "And the baseline data is the citations or the number of accident citations, the number of crashes that have occurred at those intersections that we measured in the previous 12 month period, so that's the data we presented when we looked at the ordinance and presented the ordinance." He said we will go back 12 months from the date the program starts and look at the crashes during that time and then estimate a reduction of 8% 12 months from that time.

Councilor Wurzbarger said the baseline data is baseline data collected by this Police Department independent of Redflex and is in the hands of the police department who can tell us that during 2008, for example, that there were 25 crashes at Cerrillos and St. Francis. She said after we have the system for a year, we will have the information on violations and citations.



Captain Robbin said this is correct. He said Redflex proposes an 8% reduction in crashes, not violations.

Councilor Wurzbarger said the bottom line for her has to do with safety and not with the money, although these other issues are important.

Councilor Dominguez said, although there is some safety value to this, we don't have a clear understanding of what we are dealing with. He said before he agrees to support a contract, he wants to be comfortable that he knows what he is supporting. He said conditions have changed since 2008, and that data really isn't relevant today. He wants to see in writing what is being proposed.

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Calvert, to approve this request as presented.

**DISCUSSION:** Councilor Calvert said it is up to the Governing Body to make the evaluation and determination of the program, and if we don't like the results after a year we can terminate the program. He said we can establish whatever standard we would like at the end of the year when we do the evaluation.

Chair Ortiz said it is critical to have an FIR, and not to have one seems to be an egregious breach of what we typically expect. He said this program does have costs. He said if we do not terminate for cause, then according to Exhibit D, we have to reimburse the costs to the company. He said Section 6.2 and 6.3 which refer to Exhibit D which provides that we have to pay a cost recovery reimbursement per designated intersection approval. He said if we cancel after a year, we have to reimburse the company for 80% of the cost, if either of us decide to terminate after a year. He said the Memorandum indicates this is being provided at no cost, but what it's really saying is that Redflex is deferring the cost to the end of the contract in the event that there is a termination of the contract, noting this is a five-year deal.

Mr. Katz said this is correct only if the City terminates, not if Redflex terminates.

Chair Ortiz said Paragraph 6.3 of the contract provides, "Redflex may terminate this agreement without cause by giving ninety days written notice to the customer, signed by the Project Manager. If Redflex so terminates this agreement, the customer shall be obligated to pay Redflex for all services satisfactorily incurred in accordance with this agreement, through and including the termination date in accordance with the fee specified in Exhibit D." He said the only thing in Exhibit D which talks about recovery reimbursement is the paragraph labeled Cost Recovery Reimbursement for termination without cause.

Mr. Katz said, for example, if Redflex decides to terminate on September 15<sup>th</sup>, the City would owe them for all of the citations up to that date, and that's what that's discussing. The City would not owe them anything for that language about cost recovery for termination without cause, because that's only if the customer terminates. Redflex doesn't get to recover its costs for installing equipment if it terminates.

**FRIENDLY AMENDMENT:** Chair Ortiz asked that language be inserted in Paragraph 6.3 which reflects what the City Attorney just said. **The amendment was friendly to the maker and second, and there were no objections by the other Committee members.**

**CONTINUATION OF DISCUSSION ON THE MAIN MOTION, AS AMENDED.** Chair Ortiz said there are terminations for cause which give either party the ability to terminate, but Exhibit D is silent on termination for cause. He asked the terms if the contract is terminated for cause, because it's not in the contract nor in Exhibit D.

Mr. Katz said the City would owe them for the citations which had been issued, but we would not owe them anything for anything else. He said there is no provision for paying them for anything in the contract.

**FRIENDLY AMENDMENT:** Chair Ortiz asked to add language in Paragraph 6.1 which reflects what the City Attorney just said. **The amendment was friendly to the maker and second, and there were no objections by the other Committee members.**

**CONTINUATION OF DISCUSSION ON THE MAIN MOTION, AS AMENDED.** Chair Ortiz said citations will be issued and the parties will have an administrative hearing, but not before the Municipal Judge.

Chair Ortiz said after the citations are issued, there will be an administrating hearing officer and not the Municipal Judge. He said in defending a citation, an individual can ask for strict proof.

Captain Robbin said yes, and the Ordinance provides that the rules of evidence would apply at a hearing.

Chair Ortiz said then, for a request for strict proof, Redflex would be required to provide expert testimony to substantiate the program.

Captain Robbin said he believes Redflex said it would provide expert testimony, but is unsure that counts with every violation that is contested.

Chair Ortiz said it counts for every violation for every individual demanding strict proof.

Captain Robbin said it is his understanding is that the company would be there if we request it.

Chair Ortiz said this is not his understanding, and referred Captain Robbin to Paragraphs 3.3.10 and 3.3.11. He said this provides that we get expert testimony from the company at no cost to the City for the first six months, and after that the expert testimony has to be provided on a cost reimbursement base. He noted this is being "pitched" to us as being no cost to the City.

*Captain Robbin asked the Redflex representative if this is correct.*

**Aaron Rosenberg, Ph.D., Executive Vice President, Redflex Traffic Systems,** said generally all the programs we operate, that use the same administrative process across the state and nation, are structured in such a fashion that Redflex trains the officers to testify, noting they issue the tickets, not Redflex. So, at their discretion, they review the evidence and its based on the discretion that the violation notice is sent out. Mr. Rosenberg said, For example, if something gets appealed to a higher court and it requires some form of technical expertise, in that respect they do provide that, and we could certainly make that at no cost.

**FRIENDLY AMENDMENT:** Chair Ortiz asked, as it relates to technical expertise or technical evidence that could be required, that that's provided by the company at no cost, that this language be added to Paragraph 3.3.10. **The amendment was friendly to the maker and second, and there were no objections by the other Committee members.**

**DISCUSSION ON THE FRIENDLY AMENDMENT:** Chair Ortiz said he doesn't see that any officer, no matter how well trained, would be able to testify to the validity of the system, the operations of the cameras and such. He said in that event it is necessary to call a Redflex technician that is paid by Redflex for six months, and after that is on a cost reimbursement basis.

Mr. Rosenberg said there is a variety of documentation which is provided for each hearing, including calibration records, maintenance records, the jurisdiction's statement of technology, and that it was working effectively at the time. This is standard protocol for every appeal process. He said van operators are setting up the radars and will absolutely testify in that capacity.

Mr. Rosenberg requested, with respect to the amendment, to give them sufficient lead time to get the necessary resources, seven days advance notice for a hearing where that special expert testimony is required which the typical package would not include.

Chair Ortiz said they attempt to do that by saying the customer shall use reasonable best efforts to seek judicial notice of requiring Redflex to provide.

Chair Ortiz requested that this language in the contract be worked on as well.

Mr. Rosenberg said they would like to achieve judicial notice as we have in other jurisdictions.

**The amendment was friendly to the maker and second, and there were no objections by the other Committee members.**

**CONTINUATION OF DISCUSSION ON THE MAIN MOTION AS AMENDED.** Chair Ortiz said in the contract is says "Speed Mobile Staffed by Santa Fe," and asked if that will be staffed by Redflex employees who are here in Santa Fe, or is it being staffed by the customer.

Captain Robbin said there are two ways to do this. It can be totally manned with Redflex and Redflex personnel, or we could have an officer man the vehicle and move it to the location. He said we chose to have Redflex man the vehicle, and we would give them the placement. We would not use our own police and personnel to do this. Responding to the Chair, Captain Robbin said the only option they're considering is staffing by Redflex.

Chair Ortiz asked if Paragraph 10 dealing with the monthly fee is included in the contract.

Captain Robbin said language has been "added to the bottom that the flat fee applies to all the locations, excluding those that have been identified to Redflex for future construction." He believes all four intersections have been identified as possible construction intersections.

Chair Ortiz asked, if we came up with a list of 10 intersections, if six of those wouldn't have the monthly fee, but the four we've identified to Redflex have a \$4,800 fee each.

Captain Robbin said yes.

Chair Ortiz asked, if the City identifies more intersections which can fall under the monthly exclusion and gives those to Redflex in advance of this contract, if those ten intersections wouldn't have the monthly fee.

Captain Robbin said Redflex has said this is correct, because all of those all are identified as intersections for construction. He reiterated we are placing the red light cameras only at four intersections.

Chair Ortiz said we aren't talking about any intersections at this time, because we haven't adopted the contract, and Captain Robbin said yes.

Mr. Rosenberg said the whole contract is set up as a partnership. He said the reason for the provision to identify and notice Redflex is that there is an immediate cost to Redflex to install equipment at each intersection – hundreds of thousands of dollars.

Chair Ortiz said the contract provides, "Reimbursable costs are currently estimated to equal approximately \$20,000 to \$35,000 per intersection, but in no event shall it exceed \$45,000 per intersection."

Mr. Rosenberg said they have a lot more expenses, hardware and cameras and such going into the intersections. He said that refers to the non-recoverable costs. He said the immediate out-of-pocket expenses are hundreds of thousands of dollars into the City.

Mr. Rosenberg said, with regard to this provision, the City should just let them know if a major capital improvement construction project is scheduled for an identified intersection – which is on the books, which is budgeted, before they start constructing an intersection. He said they don't want to put all of the construction in, only to have it graded and removed. He said if it is two months out, they won't build the intersection immediately, or perhaps they will and just take it off line. He said they just need to know what the City is doing.

Chair Ortiz reiterated his question about adding more intersections to the four identified by the Police Department. He asked if we disclose those now, do we have to pay the flat fee per month for those intersections.

Mr. Rosenberg said it is the discretion of the City to tell Redflex where to install the systems. He said for any identified intersection, Redflex is asking to be notified of a major capital improvement project which won't allow the system to go live and there will be no penalty assessed to the City. He said we need to work in a very cohesive way, so we know before we "drop the money, make the investment" into the City infrastructure that it won't be ripped up a month later.

Councilor Wurzbarger said this is worrisome to her.

Mr. Rosenberg said if the project is for more than thirty days, it is excluded, and reiterated that the general intent of these provisions is so we are aware that we are working together, so it wouldn't apply if it is a major construction project.

**FRIENDLY AMENDMENT:** Councilor Wurzbarger would like to amend the motion to send this item forward with the requirement that it be accompanied by the FIR by the time of the City Council meeting. **The amendment was friendly to the maker and second, and there were no objections by the other Committee members.**

Councilor Dominguez thanked Councilor Trujillo for bringing this issue forward, because his intention is for public safety. He has two young boys who are driving, and public safety is important. However, there are a lot of unanswered questions, primarily how effective this will be. He said he will be much more careful at these intersections. However, without solid, indisputable baseline data, we really are moving something forward based on things which aren't quantifiable. He said there will be a public safety factor, but not the 40% we were told initially, which was the reason he supported this initially. We haven't discussed yellow light timing, and there are studies which contradict everything the contractor talks about. He said the majority of violations at the intersection are left-turn violations, and not on straight through violations.

Councilor Domínguez said he has had questions about this contract from the beginning because it was boilerplate which raises a red flag for him. He said there are certain things we may not catch, and we had to negotiate this contract on the floor today, and he doesn't think this is the right way. He said, for now, unless the performance analyses can be incorporated into the contract, or someone can change his mind, he won't be supporting the motion. He said a constituent told him that these companies exploit public safety to make money, which he hopes isn't the case.

**Clarification of the motion:** Councilor Chavez asked if the Motion includes Exhibits A through D, and if so, he believes Exhibit D would have to be modified.

Councilor Wurzbarger said it does.

Councilor Chavez said then the mobile unit will be staffed by Redflex and the City.

Chair Ortiz said this was left in as an option.

Captain Robbin said it is an option, and we can choose to use the vendor or staff it with our own personnel, and staff made the decision to staff it with Redflex personnel, but that can be changed in the future.

Councilor Chavez would like to clarify that this option is part of the motion.

Councilor Wurzbarger would like to give direction to Mr. Katz to clarify this option.

**VOTE:** The motion, as amended, was approved on a voice vote, with Councilors Chavez, Calvert and Wurzbarger voting in favor of the motion and Councilor Dominguez voting against.

Chair Ortiz said not including an FIR for packet items is a serious matter. He will be pulling this from consent at Council, at a minimum to go through the financials.

Chair Ortiz said this company has done business in Texas and Arizona and some entities contracting with this program are now seeking to terminate. He would like to have some information available in this regard with what went wrong in other communities so we can avoid those problems here.

Councilor Trujillo said he will see that he gets that information. He hopes we have answered the questions to the extent possible. He said the bill is for public safety. He thanked the Committee for the affirmative vote.

Mr. Millican said ordinarily an FIR would be prepared for the ordinance. However, there have been clear questions about how the contract will work. He asked if it would be acceptable to the Chair and the Committee to do a staff report rather than an FIR, because that format isn't really good for addressing all the issues. He said the ordinance has been adopted, but could need to be amended as the result of legislation passed by the Legislature. He said ordinarily an FIR wouldn't be attached to a contract, but he understands the significance for this contract.

Chair Ortiz said it has been his experience that each contract "has got an amount that we are on the hook for," and this is a sliding fee scale contract and the revenues are indeterminate."

Mr. Millican said staff will describe a range of potential outcomes, rather than specific, because of the results variables.

**9. REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – ADVERTISING SERVICES FOR SANTA FE CONVENTION AND VISITORS BUREAU; VAUGHN WEDEEN CREATIVE, INC. (KEITH TOLER)**

Councilor Calvert noted this contract is now at \$3.5 million, and he wants to know the results of these expenditures before he makes a decision.

Keith Toler said all of the advertising is directing people to the website, which currently is up about 13% over previous years. He said the contract began in 2007 before he came, so he has been amending the contract annually. He said this particular amendment is for use of the investment funds allocated by the Council. He said Councilor Bushee asked him to move forward with a holiday promotion and an in-state New Mexico promotion which was done for \$112,000 which has exhausted the current contract. He said work has stopped until this amendment is approved and he can move forward with the spring campaign and continue to use the investment funds.

Councilor Calvert understands the hits on the website, but this is activity not results. He said increased bookings would be considered as results, and asked if we have that information to justify the continuation of this contract.

Mr. Toler said the City was seeing a steady climb in Lodger's Tax until the downturn in the economy when people stopped traveling. He said, with the downturn in the economy, he personally feels this is the completely wrong time to stop marketing, and feels this is the Council's feelings as well by committing the investment funds.

Councilor Calvert said he doesn't oppose committing those funds, but since we're going for the fourth amendment, he wants to know how effective the company has been on our behalf.

Mr. Toler said the only way is to look at the traffic to the website and the number of phone calls which is the call to action for the advertising. He said he doesn't believe you can relate the advertising directly to bookings. He said he is seeing more people downloading the Visitor's Guide off the website, and fewer people calling and requesting us to mail them a Visitor's Guide, which is good and keeps costs down. He doesn't believe you can equate what the creative team or the media team is doing for the bookings which are coming in. He said there is nothing for comparison on the Convention Center side because there wasn't a Convention Center until the fall. He said since September they have generated \$110,000 in revenue the first four months at the Convention Center and there was an additional \$58,000 business which are fees waived by the Resolution or contracts.

Responding to Councilor Calvert, Mr. Toler said about \$800,000 of the funds for the contract with Vaughn Wedeen is geared specifically toward leisure travel. Another \$300,000 was geared toward advertising the Convention Center in year one, and he doesn't think we need to continue at that level.

Councilor Calvert reiterated that we need to develop a way to measure the effectiveness of this contract. He agrees that we shouldn't cut back, but he wants to know that the expenditure is beneficial.

Mr. Toler said it isn't easy to get the hotels to report bookings, but he can see that they are signing up to continue to receive promotional information.

Responding to Councilor Calvert, Mr. Toler said the hotels must think it's successful, because they keep coming back for every campaign with dollars to invest.

**MOTION:** Councilor Calvert moved, seconded by Councilor Wurzbarger, to approve this request.

**DISCUSSION:** Councilor Chavez asked Mr. Toler what he was directed to do by Councilor Bushee.

Mr. Toler said this was in the Economic Development Plan which you approved on December 12, 2008, which was "Home for the Holidays."

Councilor Chavez said he thinks that was okay, but he wants to know how this decision was made and "who is giving who direction." He said we are overlooking the handmade component, and we need to look at incorporating that into holiday shopping and general shopping.

Mr. Toler said this is done in the advertising, noting on the website there is a whole section on all of the Santa Fe businesses who have ecommerce capability.

Councilor Chavez said this should be referenced in the Memorandum if it is part of the website.

Responding to Councilor Chavez, Mr. Toler said there is already a link to the Community Gallery but it doesn't have the information he needs, so currently it is linked to the City website. The [santafe.org](http://santafe.org) gallery site currently is under construction and staff is working on the content.

Councilor Chavez said that should have been included.

Mr. Toler said it isn't part of the specific \$1 million investment plan.

Councilor Chavez said it is part of our strategy to get people here.

Mr. Toler said it doesn't direct the advertising, which is what the Memo is talking about.

Councilor Chavez noted the Wayfinders Program isn't included, and all components of our cultural and creative tourism should be part of the Memo, and part of the \$ million investment.

Chair Ortiz said asked if there will be the same summary of expenditures proposed for the \$1 million. He asked what is Local Business Development.

Mr. Toler said this is the \$50,000 which is going to the Economic Development Department for its initiatives with local businesses.

Chair Ortiz asked if the \$80,000 for convention center sales is for a new position.

Mr. Toler said no, it is for a one year contract position, and to hire a representative firm to call other meeting planners. Responding to the Chair, Mr. Toler said the contractor will be required to meet a minimum of 5,000 room nights annually throughout the contract.

Responding to Councilor Chavez, Chair Ortiz said this is coming from the CVB budget at \$8,000 for a particular program which was planned at the beginning of the year.

Responding to Councilor Chavez, Mr. Toler said this was planned at the beginning of the year and is separate from the \$80,000 and the \$1 million.

Responding to Councilor Chavez, Chair Ortiz said this amendment is to give another \$500,000 to this advertising firm, the bulk of which is coming in the drive market campaign and other items which come in under the \$1 million.

Mr. Toler said the other half will be coming in the next fiscal year. He said the entire contract will be redone in the next fiscal year and it will be a different amount. Responding to the Chair, Mr. Toler said there is one more year before the contract is put out for bid.

**VOTE:** The motion was approved unanimously on a voice vote.



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**MOTION:** Councilor Wurzburger moved, seconded by Councilor Chavez, to allow Chair Ortiz to pull item #10 from the Consent Agenda for discussion, and to approve the agenda as amended.

**VOTE:** The motion was approved unanimously on a voice vote

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**10. REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – MEETING FACILITATION AND PROCESS MANAGEMENT FOR LONG RANGE PLANNING DIVISION; JENKINS GAVIN DESIGN AND DEVELOPMENT, INC. (REED LIMING)**

Chair Ortiz said these numbers are still not sitting with him, and he asked Ms. McCormick if it would be possible to postpone this item to the next meeting so the contractor could be here and we could have that discussion. He noted the numbers still seem high to him.

Ms. McCormick said she has no heartburn with that, and will be meeting with the contractor on Wednesday to talk about the range of options since staff has heard this is of concern.

**MOTION:** Councilor Wurzburger moved, seconded by Councilor Chavez, to postpone this item to the next meeting of the Committee on February 16, 2009.

**VOTE:** The motion was approved unanimously on a voice vote.

**17. REQUEST FOR APPROVAL OF PURCHASE OF SCHOOL DISTRICT PROPERTY/LOAN TERMS – MASTER PLAN FOR NORTHWEST QUADRANT; SANTA FE PUBLIC SCHOOLS. (KATHY McCORMICK).**

Ms. McCormick said she spoke with Frank Katz.

Councilor Chavez said he questions spending \$850,000 to buy this land at this time, when departments are being asked to reduce the budget by 15%, and there is discussion of reducing the salaries of the Governing Body.

Councilor Ortiz said if there had been an amendment at Public Works to reduce the cost by \$850,000 he believes everyone would have been in favor of that, but that isn't his understanding of what happened.

Councilor Calvert said there are lots of requests to use CIP funds, but he understands all of those funds have been allocated. He asked how these funds become available. He noted we are looking at CIP as a reserve to cover certain operational and maintenance items.

Mr. Millican said when the recommendations were made, the CIP Fund had a balance of \$6 million which hadn't been allocated, with a revenue stream from the Water Division of \$2 million. He said the \$2 million acquisition loan repayment was removed by the Council in adopting the new water rates. He said the \$850,000 would encumber part of the remaining CIP fund balance. He said as we stress test these funds in the next two months, a significant decline in GRT without the acquisition loan repayment, will start to stress expenditures funded by the CIP. He said almost \$10.5 million of the tax revenue is for debt service which can't be decreased, and the decline in GRTs would have to be spread across a \$5.6 million expenditure base. He said we have to consider that these programs, such as the Southside Library and subsidies to the GCCC, and the money was in the fund when staff made its recommendation. He said as you considered the recommendation, staff thought the fund can afford this because there is a repayment plan built in and a source of repayment. However, the CIP GRT has been targeted by many people which was realistic when the decline might be only 2%, but if we face a more serious decline, the landscape changes.

Councilor Wurzbarger said she appreciates the explanation. Nevertheless, she feels strongly we need to move forward with this. She said we have to make choices for moving forward, noting we have worked on this for six years, noting it was a critical decision to move this forward as planned.

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Dominguez, for purposes of discussion, to approve this request, not with the stipulation of the 2013 delay, and move forward with the original action of the Council.

**DISCUSSION:** Councilor Chavez we have a repayment plan if and when and after the first home is sold in the Northwest Quadrant. In the event that doesn't happen, or the project doesn't begin construction by 2013, the CIP GRT will be repaid from Affordable Housing Trust Fund at \$140,000 per year for six years.

Chair Ortiz said that seems to set priorities to get houses built so we can get the fund repaid.

Councilor Chavez said he differs because we could use that \$850,000 to build where the growth is occurring already. We could expand the program to continue to buy houses in neighborhoods. He said he was unwilling to support this from the beginning and is not inclined to support it now, especially in light of the economy and our requests of the departments. He won't support the motion.

Councilor Dominguez said the motion is to move forward with the original proposal and not what came out of the Public Work Committee. He said this could become very expensive if we don't move expediently given the timeline presented, and he supports the program.

Councilor Calvert asked Ms. McCormick about "Frank's hearsay comments on the legality of this."

Ms. McCormick said Mr. Katz said the City is under contract with the School District, which stipulates that the City will purchase the property outlined, which was done through a series of letters between the City and School District, the final letter being the one "the City said we accept these terms and conditions and this is when we're going to pay you." She said the School District accepted this in a public forum and directed Superintendent Bobbie Gutierrez to sign off on the submission of the master plan pursuant to the

series of letters as we indicated, which was we're going to buy this land and you will sign off on the master plan. She said Frank Katz's position is that this a legal contract.

Councilor Calvert said the bottom line is that we're legally bound to do this.

Ms. McCormick said yes, although we could always go back to the School District and say things change and ask them to work on a payment plan. She spoke with Justin Snyder today, and they are very concerned because they got a hit from the Legislature and are down \$500,000 down in some of their operating money. She said Mr. Snyder is unsure how the Board would receive reopening the discussion.

Councilor Calvert said since we made this offer, a lot has happened. He is sure the School wants us to adhere to the agreement, but it doesn't hurt to ask.

**FRIENDLY AMENDMENT:** Councilor Wurzbarger said she would accept as friendly, an amendment that prior to the Council meeting, staff is directed to get a feeling as to how the School might respond to our request to negotiate the terms and amount. **The amendment was friendly to the maker and second, and there were no objections from the other members of the Committee.**

In accepting the amendment as friendly, Councilor Dominguez said we need to be careful to ensure we maintain a good level of good faith between the School and the City, and it needs to be done in that manner.

Councilor Chavez said there was initial interest in master planning all of the Northwest Quadrant, but the City didn't accept our density and zoning and want to do something different. The City still is going to have to set aside 10 acres for a school site. He said "we're not off the hook yet," and there is a value on that 10 acres, yet knowing that the school has land in the area. He said \$850,000 is not going to help the overcrowding of the schools in the southwest sector and we need to pay attention there more than to the Northwest Quadrant.

Chair Ortiz said he agrees with Councilor Chavez. He said, "The more we continue to give either formal or informal direction to have affordable housing only in the southwest sector, or on the south side of town, the more crowded the schools are going to be on the south side of town, the southwest side of town. So, a redistribution of some of those houses where working families can live to put some of those kids, not just in those schools that have enrollment capacity, but also, quite honestly, have a better teacher-student ratio... that is part of the plan we have in the Northwest Quadrant." He said, given the declining revenues, by consummating this action, we will be infusing our School District with needed revenue to cover its shortfalls now, which is affecting schools now. This money is going into the classrooms in the southwest sector and this will be a blessing for the School District. He said unlike paying for speed bumps or operation and maintenance of the Southside Library, this is a loan. He said this money being fronted to the District to purchase this equipment will be a loan against the sale of houses, and this fund will eventually be repaid.

Chair Ortiz said if we continue to extend the deadlines and not build the project, under these terms the Affordable Housing Fund would be impacted. He said if we build these houses and the market recovers, then the house sales will reimburse the cost of this purchase. He said this will come back and replenish the fund, and this makes economic sense.

Councilor Chavez said the reality is that we are compensating for the school funding formula which is inadequate. He said the PTAs and the Parent Teacher committees will still have to sell candy bars and do fundraising for the art, physical education and music teachers. This won't change with this \$850,000. He said he doesn't believe the number of houses to be built in the Northwest Quadrant are sufficient to compensate for the economics of where affordable housing is built and accepted.

**VOTE:** The motion, as amended, was approved on a voice vote, with Councilors Calvert, Dominguez and Wurzbarger voting in favor of the motion and Councilor Chavez voting against, and Councilor Ortiz noting his support for the motion.

**21. REQUEST FOR APPROVAL OF A RESOLUTION AMENDING RULE 9.20 OF THE CITY OF SANTA FE PERSONNEL RULES AND REGULATIONS SO THAT CITY EMPLOYEES WHO ARE CANDIDATES FOR POLITICAL OFFICE MAY TAKE ANNUAL LEAVE DURING A POLITICAL CAMPAIGN (COUNCILOR DOMINGUEZ). (KRISTINE KUEBLI). Committee Review: City Council (Scheduled) March 11, 2009. Fiscal Impact – No.**

Councilor Calvert would like to know why this was done, and asked if this applies to City Councilors.

Ms. Kuebli said Personnel Rule 2.30 excludes City Councilors, as well as exempt employees and such.

Councilor Calvert would like to add "Board" after community college on page 3, line 13.

Ms. Kuebli said Item E is a State statute, so we'd have to refer back to the State statute.

Councilor Calvert asked if the Hatch Act applies to City employees as well.

Ms. Kuebli said there may be covered employees and in that circumstance, we would refer to the Office of special counsel. She understands the Hatch Act would apply to City employees with financial responsibility and fiscal oversight of federal grants.

Councilor Calvert asked why we are adding provision B.

Ms. Kuebli said there is only one section proposed to be changed in the Personnel Rules which is the underlined language which says "or annual leave."

Councilor Calvert questions why we need this reference to the Hatch Act.

Ms. Kuebli noted these were written in 1978-1989 and haven't been revised. She spoke with the City of Albuquerque and Santa Fe County about their written policy. She recommends if this is agreed to, that she would draft a new rule to address these concerns and bring them to more contemporary standards.

Chair Ortiz said we can amend it if we like.

Responding to Councilor Chavez, Mr. Buller said he only dealt with one employee asking for a leave to run for office. If the employee is union, then the AFSCME agreement controls that and he follows that contract. If not, then we follow these Personnel Rules and Regulations. He said some are exempted from those, one of which is the City Manager which is in the City Charter. He said the one employee requesting this was requesting authorized leave without pay. Responding to Councilor Chavez, Mr. Buller said annual leave would be taking the annual leave pay.

Councilor Dominguez said the intent of this proposal is to encourage people to run for political office. He said two City employees, other than the one mentioned by Councilor Chavez, ran for partisan office and were unable to use their annual leave. The intent is to allow them to use their annual leave for that purpose.

**MOTION:** Councilor Dominguez moved, seconded by Councilor Calvert, to approve this request as amended.

**DISCUSSION:** Councilor Calvert asked staff to work to clean up this language as best they can.

**VOTE:** The motion was approved on a voice vote, with Councilors Calvert, Dominguez and Wurzbarger voting in favor of the motion, no one voting against, and Councilor Chavez abstaining.

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#### **END OF CONSENT CALENDAR DISCUSSION**

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#### **DISCUSSION**

#### **23. REQUEST FOR APPROVAL OF PROPOSED CHANGES TO LOCAL PREFERENCE CERTIFICATION REQUIREMENTS; LOCAL PREFERENCE CERTIFICATION FORM, SECTION 15.4 OF THE CITY OF SANTA FE PURCHASING MANUAL. (ROBERT RODARTE)**

Robert Rodarte reviewed the proposed changes to the Local Preference Section of the Purchasing Manual which are attached to his Memorandum of February 26, 2009, which is incorporated herewith to these minutes by reference. Please see this document for specifics of this presentation.

Mr. Rodarte said he discussed the proposed change from 8% to 10% with Frank Katz, and there is no problem legally as long as the Council approves the change. He said the problem really is that companies out of Albuquerque can hire the required number of employees who live in Santa Fe and get

the local preference. He proposes amending 15.4.4 to provide that the company must be a business which is set up in Santa Fe and not a subsidiary of a company which is far away. He also proposes that the company must obtain a City business license six months before submitting a bid or an RFP, and must run its business out of the stated address.

Councilor Chavez said Mr. Rodarte said there might be a gray area in accepting an address which might be a residence. However, the Home Occupation Ordinance allows business activity in neighborhoods with certain guideline. He asked if we are eliminating that completely.

Mr. Rodarte said he and Councilor Chavez discussed this and the reason he deleted that "blurb," is because there are a lot of these businesses. He said as far as he's concerned these are businesses, whether or not they are working from home.

Chair Ortiz said the Home Occupation Ordinance would cover that, and give them the ability to qualify as a fixed office and they would be given the preference under these amended procedures.

Chair Ortiz asked if moving from 8% to 10% is sufficient for them to compete with the New Mexico resident firms that get 5%, and to start keeping businesses in Santa Fe.

Mr. Rodarte believes it is sufficient. He said the idea is to get the best quality of work at the best possible price, and sometimes this works for the City and sometimes it doesn't. He doesn't want to send a big message to people to "Stay Out." He believes increasing to 10% is pushing it. He said we'll get letters saying this is unfair, noting 8% is a big difference, especially in dealing with a large project. He doesn't believe we should go higher.

Councilor Ortiz said the allegation was raised, with regard to the landscaping contract discussed previously, that the reason the Albuquerque firms are underbidding because we don't require them to pay the prevailing or living wage to employees. So, they are undercutting labor costs, and we're not taking proactive steps to ensure they are paying their employees what they should be paying. He asked if we should require them in the bid packet to provide a pay rate for their employees, so we can see how these Albuquerque firms are underbidding those in Santa Fe.

Mr. Rodarte said, for future bids and RFPs, he is proposing a subcontract list which would give a better definition of who they're using and what they're paying. However, more legal work needs to be done on that and he would like to bring this back at a different time.

Chair Ortiz said the Purchasing Manual could require that the prospective bidder has to provide its pay scale in the bid document.

Councilor Calvert said the problem he has with the 10% is that it is a number we sort of "picked out of the air." He would like to see a number we could better substantiate that the money is spent locally and we get the GRTs, and if they're paying the living wage.

Councilor Calvert said if an Albuquerque firm wins a contract and the City insisted they must pay the living wage, those monies go into the Albuquerque economy. He would like a higher local preference percentage.

Responding to Councilor Calvert, Chair Ortiz said the GRTs should be paid here, but on the reporting schedule they could make an argument that it is generated in the principal place, and they can use that county as the designation. However, TRD won't provide that information from their report to the City.

Mr. Rodarte said if the work is done in Santa Fe, they pay the tax rate here.

Councilor Ortiz said the City could be paying GRTs on invoices with the Santa Fe rate, but they can file the revenue as a gross number using their Albuquerque address, so there are unaccounted dollars which would go to the company.

Councilor Calvert said the language in the Procurement Manual speaks to the County, noting the County isn't going to share its GRTs. He wants more justification for the benefits of the increase to the City, such as where the money is spent.

Chair Ortiz said we've used a local multiplier of 3.2 and 3.7, depending on the Convention Center and the living wage.

Mr. Millican said the sub-regional economic model he is describing is a complex model because there aren't good fences between political boundaries. The multiplier the Chair mentions works on money received by firms in Agua Fria, as much as it works in Santa Fe. He said you would be looking at the net difference between what would happen if you spent it in a part of the County 10-50 miles away.

Chair Ortiz said the problem is our tax dollars are going to Albuquerque, it's not a County issue.

Mr. Millican said it is a balance between getting economical goods and services for the taxpayers while supporting local businesses, which is strictly a Council judgment.

Councilor Calvert said he doesn't want this to be an embargo, because there will be projects the local contractors can't handle, and we can't get those who can if we put up too many barriers.

Councilor Chavez said Mr. Rodarte has suggested that 10% is a reasonable number and he would trust staff, and we can look at the other language to see if it will change the activity. He said the economy is fluid and won't stop the bleeding. He said half of the car dealers here are from Albuquerque. He said we can go only so far, and this was our best effort to address the issues. He said Mr. Rodarte is trying to address the concerns, noting in his Memorandum he suggests "encourage and require." However, he believes we should require contractors to hire local subcontractors as much as possible, because that keeps more money in the local economy.

Responding to Councilor Calvert, Councilor Chavez said the Council can determine what is "as much as possible." He said Councilor Calvert asked for this in Homewise when it applies to solar.

Chair Ortiz said we are all on same page. The issue is what measurements and mechanisms we can do now, and what can be implemented in the future. He said we need to see if we're going far enough now, and what kinds of mechanisms we could implement to see if we can keep some of the projects here. He is thinking we could justify a greater increase than 10%. However, for now, we look to staff to see if some of these things are having an impact, if not, we could look at other things.

Councilor Chavez said Mr. Rodarte said it is a combination of the 8-10% and the other language added to validate the place of business.

Councilor Calvert said there is a 30% differential between the living wage and the wages in Albuquerque.

Councilor Chavez said a local contractor will buy in Santa Fe.

Councilor Dominguez said there are local contractors who are still hiring labor from outside.

Councilor Chavez said the economy is fluid, and we can't prevent people from hiring an Albuquerque contractor because they can save money.

**MOTION:** Councilor Chavez moved, seconded by Councilor Calvert, to approve this request with these changes, with direction to staff to continue to work on the other components, including the changes to the local preference and changes to the requirements for subcontractors, and require contractors to hire local subcontractors, the same as we did for the solar application.

**DISCUSSION:** Mr. Millican aid the City Council has significant control over setting the incentive level, but because of the commerce clause to the U.S. Constitution, we may not be able to prevent a bidder from hiring somebody from outside the area which might be considered to be in restraint of trade, noting we need to discuss this with the City Attorney .

Councilor Calvert said we have to compensate the local companies with a higher local preference, but he doesn't have a figure to recommend.

**VOTE:** The motion was approved unanimously on a voice vote.

## **24. OTHER FINANCIAL INFORMATION:**

There was no other financial information.



## 25. ADJOURNMENT

There being no further business to come before the Committee, and the Committee having completed its Agenda, the meeting was adjourned at 8:00 p.m..

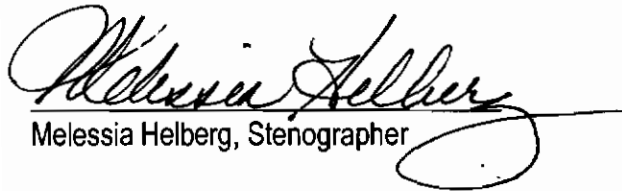
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Matthew E. Ortiz, Chair

Reviewed by:

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David N. Millican, Director  
Department of Finance



Melessia Helberg, Stenographer