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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2013-44

INTRODUCED BY:

Mayor Coss
Councilor Bushee
Councilor Trujillo
Councilor Calvert

A RESOLUTION

**RECOGNIZING THAT SAME-SEX MARRIAGE IS LEGAL IN NEW MEXICO;
ENCOURAGING NEW MEXICO’S COUNTY CLERKS TO ISSUE MARRIAGE LICENSES
TO SAME-SEX COUPLES; ENCOURAGING THE NEW MEXICO ATTORNEY GENERAL
TO ISSUE AN OPINION REGARDING MARRIAGE LICENSES FOR SAME-SEX
COUPLES; AND SUPPORTING EFFORTS TO ENFORCE THE MARRIAGE LAWS OF
NEW MEXICO.**

WHEREAS, the Charter of the City of Santa Fe recognizes that Santa Fe has “a history of tolerance towards all people, cultures, traditions, and lifestyles;” and

WHEREAS, the Charter also acknowledges that “the human and civil rights of the residents of the City of Santa Fe are inviolate and shall not be diminished or otherwise infringed;” and

WHEREAS, the struggle for equality among lesbian, gay, bisexual, and transgender people is the modern face of the Civil Rights Movement; and

WHEREAS, nine states and the District of Columbia currently extend marriage licenses to same-sex couples; and

1 **WHEREAS**, Santa Fe has always been a proud leader in recognizing basic human rights and
2 in fighting against discrimination; and

3 **WHEREAS**, New Mexico’s statutory definition of marriage is gender-neutral and does not
4 define marriage as between a man and a woman, NMSA 1978, Section 40-1-1 (1862-63); and

5 **WHEREAS**, the only marriages prohibited by statute in New Mexico include those between
6 relatives within a specified degree of relation and those with minors, Section 40-1-9, and New
7 Mexico County Clerks are required by statute to issue marriage licenses when they are satisfied that
8 the parties are not relatives and are at least eighteen years of age, Sections 40-1-10 to -13; and

9 **WHEREAS**, New Mexico already recognizes same-sex marriages from other jurisdictions,
10 Section 40-1-4; N.M. AG Op. No. 11-01 (2011); and

11 **WHEREAS**, the Constitution of the State of New Mexico requires that equal rights shall not
12 be denied on account of the sex of any person, N.M. Const. art. II, Section 18; and

13 **WHEREAS**, pursuant to NMSA 1978, Section 8-5-2(D) (1933, as amended through 1975),
14 the Attorney General of the State of New Mexico shall give an opinion in writing upon any question
15 of law submitted to him by the legislature and the Attorney General has received a legislative request
16 for an opinion regarding the marriage laws of the state as they apply to same-sex marriage;

17 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
18 **CITY OF SANTA FE** that we, the members of the Santa Fe governing body, do hereby recognize
19 that, under New Mexico law, same-sex marriage is legal in our State and that our State’s citizens have
20 the right to marry the partner of their choice for the following reasons:

- 21 1. New Mexico marriage laws do not define marriage as between a man and a woman;
- 22 2. Although our State statutes prohibit certain marriages, same-sex marriage is not
23 prohibited;
- 24 3. Pursuant to New Mexico marriage statutes, a valid same-sex marriage from another
25 state is recognized in New Mexico; and

1 4. To discriminate against same-sex couples would violate the New Mexico
2 Constitution, which requires equality under law regardless of sex.

3 **BE IT FURTHER RESOLVED BY THE GOVERNING BODY OF THE CITY OF**
4 **SANTA FE** that we strongly encourage New Mexico's County Clerks to follow state law and issue
5 marriage licenses to loving, committed couples who have the right to marry the person that they love,
6 including those of the same gender.

7 **BE IT FURTHER RESOLVED BY THE GOVERNING BODY OF THE CITY OF**
8 **SANTA FE** that we strongly encourage New Mexico's Attorney General to promptly issue an official
9 opinion confirming the legal obligations of County Clerks to issue marriage licenses to same-sex
10 couples.

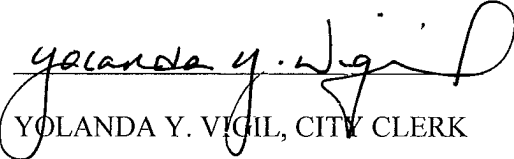
11 **BE IT FURTHER RESOLVED BY THE GOVERNING BODY OF THE CITY OF**
12 **SANTA FE** that the City will support legal efforts to obtain marriage equality under the law of New
13 Mexico, including filing amicus briefs in any same-sex marriage litigation to represent the City of
14 Santa Fe's interest in protecting citizens from discrimination and denial of equality in marriage rights.

15 PASSED, APPROVED and ADOPTED this 24th day of April, 2013.

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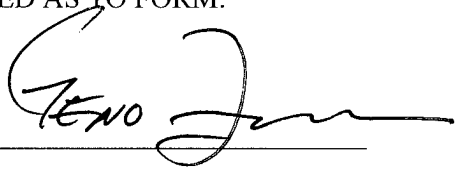
17 DAVID COSS, MAYOR

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21 ATTEST:

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24 YOLANDA Y. VIGIL, CITY CLERK
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APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "GENO Zamora", written over a horizontal line.

GENO ZAMORA, CITY ATTORNEY