

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2013-2

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4
5 AN ORDINANCE

6 RELATING TO THE CITY OF SANTA FE ECONOMIC DEVELOPMENT PLAN
7 ORDINANCE, ARTICLE 11-11 SFCC 1987; APPROVING AND ADOPTING AN AMENDED
8 LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT
9 BETWEEN THE CITY OF SANTA FE AND RODEO PROPERTY, INC. FOR AN INDOOR
10 MULTIPURPOSE FACILITY, A LOCAL ECONOMIC DEVELOPMENT PROJECT.

11
12 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

13 Section 1. Short Title. This Ordinance shall be known as the "Rodeo Property, Inc.
14 Local Economic Development Project Ordinance."

15 Section 2. Recitals.

16 A. The Local Economic Development Act, Sections 5-10-1 et. seq. NMSA 1978
17 explicitly permits municipalities to assist qualifying entities with economic development projects
18 through the use of public resources; and

19 B. The City of Santa Fe has complied with the requirements of the Local Economic
20 Development Act by adopting an economic development plan ordinance (11-11 SFCC (1987)),
21 incorporating within that ordinance its community economic development plan and its economic
22 development strategy for implementation dated May 21, 2008; and

23 C. On December 14, 2011 the City approved the Economic Development Project
24 Participation Agreement ("PPA") between the City and Rodeo Property, Inc., and designated the
25 Rodeo Property, Inc., as a "Qualifying Entity," to receive \$100,000 in funding from the City for the

1 Rodeo Project that would support the City's Economic Development Plan. See signed PPA dated
2 December 14, 2011, attached hereto as Exhibit "A" and the City's December 14, 2011 Meeting
3 Agenda and Minutes, attached hereto as Exhibit "B"; and

4 D. The Rodeo Property, Inc. Economic Development Project is an indoor multipurpose
5 facility that shall be designated for rodeo events, sports events, and entertainment events as well as
6 serve as a disaster relief facility for animals (hereinafter referred to as the "Project"); and

7 E. Pursuant to the December 14, 2011 PPA, the dispersal of \$100,000 by the City is
8 contingent on:

9 (1) The City's issuance and sale of sufficient gross receipts tax bonds for the
10 purpose of procuring a contractor to complete a feasibility study that shall be the basis for
11 securing additional funding for the planning, designing and construction of an indoor
12 multipurpose facility; and

13 (2) Rodeo Property, Inc. securing sufficient matching funds in the amount of
14 \$100,000 to fully fund the feasibility study;

15 F. In 2012, to partially fulfill the match, the State Legislature appropriated \$81,000 in
16 severance tax bonds to plan, design, construct, equip and furnish an indoor multiuse arena and
17 regional disaster relief facility at the Rodeo de Santa Fe grounds in Santa Fe. The Local Government
18 Division of the Department of Finance and Administration intends to grant to the Rodeo Property,
19 Inc. \$81,000 for the Project; and

20 G. In order to complete the match requirement, and pursuant to Santa Fe County
21 Resolution 2012-78, Rodeo Property, Inc., the City of Santa Fe and Santa Fe County are executing a
22 Memorandum of Understanding ("MOU") for the County to transfer \$19,000 to the City. After
23 execution of the MOU and the Grant Agreement, Rodeo Property, Inc.'s match required under the
24 December 14, 2011 PPA, will consist of the \$81,000 State Appropriation and \$19,000 in funds from
25 the County which together provide a full match for the City's \$100,000 contribution toward the

1 completion of the Project. See MOU, attached hereto as Exhibit "C" and Santa Fe County Resolution
2 2012-78, attached hereto as Exhibit "D"; and

3 H. The December 14, 2011 PPA is now being amended to include the State and the
4 County contributions of funds to the Project; and

5 I. The City's total contribution of \$100,000 shall be applied towards the completion of
6 the plan and design phase of the Rodeo Project and will be matched by the State's contribution of
7 \$81,000 for the architectural design phase and the County's contributions \$19,000 for the planning
8 phase on a dollar for dollar basis.

9 **Section 3. Findings.** The governing body hereby finds:

10 A. The City of Santa Fe has determined that it is in the interest of the welfare of the
11 citizens of Santa Fe to enter into an amended Economic Development Project Participation
12 Agreement for the purposes of effectuating its Economic Development Plan and the Project.

13 B. In compliance with the City's economic development ordinance, 11-11 SFCC (1987),
14 the December 14, 2011 Project Participation Agreement and the amended Project Participation
15 Agreement between Rodeo Property, Inc. and the City clearly state the following:

- 16 (1) The economic development goals of the project;
- 17 (2) The contributions of the City and Rodeo Property, Inc.;
- 18 (3) The specific measurable objectives upon which the performance review will
19 be based;
- 20 (4) A schedule for project development and goal attainment;
- 21 (5) The security being offered for the City's investment;
- 22 (6) The procedures by which the Project may be terminated and the City's
23 investment recovered;
- 24 (7) The time period for which the City shall retain an interest in the Project; and
- 25 (8) A "sunset" clause after which the City shall relinquish interest in and

1 oversight of the project.

2 **Section 4. Approval and Adoption of Amended Project Participation Agreement.**

3 A. The governing body hereby approves amendments to the December 14, 2011 PPA
4 whereby the City's total contribution of \$100,000 shall be used towards paying for the completion of
5 the plan and design phase of the Project and will be matched by the State's contribution of \$81,000
6 for the architectural design phase and the County's contribution of \$19,000 for the planning phase, on
7 a dollar for dollar basis.

8 B. The amended Project Participation Agreement, attached hereto as Exhibit "E", is
9 hereby adopted.

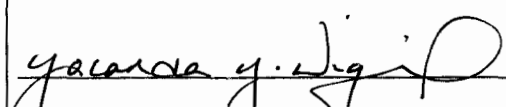
10 **Section 5. Severability Clause.** If any section, paragraph, clause, or provision of this
11 Ordinance, or any section, paragraph, clause, or provision of any regulation promulgated hereunder
12 shall for any reason be held to be invalid, unlawful, or unenforceable, the invalidity, illegality, or
13 unenforceability of such section, paragraph, clause, or provision shall not affect the validity of the
14 remaining portions of this Ordinance or the regulation so challenged.

15 **Section 6. Effective Date.** This Ordinance shall become effective immediately upon
16 adoption.

17 PASSED, APPROVED and ADOPTED this 9th day of January, 2013.

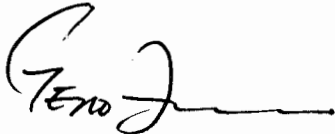
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20 _____
21 DAVID COSS, MAYOR

21 ATTEST:

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25 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

CITY OF SANTA FE
ECONOMIC DEVELOPMENT
PROJECT PARTICIPATION AGREEMENT

THIS PROJECT PARTICIPATION AGREEMENT (hereinafter referred to as "Agreement") is made and entered into this 14th day of December, 2011 by and between the City of Santa Fe, hereinafter referred to as the "City"; and Rodeo Property, Inc., hereinafter referred to as the "Qualifying Entity" (Q/E).

WHEREAS, the State of New Mexico has deemed it in the best interest of the citizens of New Mexico to enact the Local Economic Development Act (N.M. Stat. Ann. 5-10-1 et seq. (1978);

WHEREAS, the Local Economic Development Act explicitly permits municipalities to assist qualifying entities with economic development projects through the use of public resources;

WHEREAS, the City of Santa Fe has complied with the requirements of the Local Economic Development Act by adopting an economic development plan ordinance incorporating within that ordinance its community economic development plan (11-11 SFCC (1987)), its Community Economic Development Plan and its Economic Development Strategy for Implementation dated May 21, 2008;

WHEREAS, the City of Santa Fe has determined that it is in the interest of the welfare of the citizens of Santa Fe to enter into this Economic Development Project Participation Agreement for the purposes of effectuating its economic development plan.

NOW THEREFORE, in consideration of the premises, the following and other good and valuable consideration the receipt of which is hereby acknowledged the undersigned parties hereby agree as follows.

1. CONTRIBUTIONS AND OBLIGATIONS OF THE CITY AND THE Q/E.

A. Economic development goals of the project: The project addresses the following goals from the Community Economic Development Plan (CEDP):

(1) *Implementing comprehensive economic development policies that address both local and regional objectives;*

(2) *Directing major economic development initiatives toward creating opportunities for local residents that result in the steady improvement in the standard of living;*



(2) **Disbursement of Funds:** If the contingencies set forth in Paragraph 1. B. 1. above are met, the Funds will be disbursed by the City of Santa Fe to the Q/E upon receipt of Payment Application(s) from the Q/E. Payment application(s) will have a cover letter from the Q/E requesting that City grant Funds be paid toward the feasibility study. The City will disburse the Funds to the Q/E within 30 (thirty) working days of receipt and acceptance by the City of the payment applications. The City's grant does not promise to fully fund the feasibility study and the Q/E agrees to contribute any additional necessary funds as set forth in Paragraph 1. B.

(3) **Contributions and Obligations of the Q/E and Specific Measurable Objectives upon which Performance Review will be based** : Future funding from the City for the Project is contingent upon the results of the feasibility study, the Q/E's ability to secure private funding or State funding for the construction of the indoor multipurpose facility.

(a) **Financial Investment:** The Q/E brings the following non-cash financial investment to the project.

(b) **Direct and Indirect Jobs Creation:** It is anticipated that after completion of the construction of the indoor multipurpose facility, the Q/E plans to employ 286 (direct), 114 (indirect), and 93 (induced) construction industry jobs over the course of construction, generating a \$16,170,250 in total estimated payroll. Once the Project is completed, it is anticipated to create 68 full time jobs and 70 per event part-time jobs; and by year five, it is estimated there will be 68 full time employees and 70 per event part time employees in the building. See Attachment "A" for Report of the Economic Impact of Rodeo De Santa Fe on Santa Fe, NM, prepared by Impact DataSource (the "Economic Impact Report").

(c) **Expanded Tax Base:** It is anticipated that after completion of the construction of the indoor multipurpose facility, the Project will make contributions to the City's tax base resulting from this project are enumerated in the Economic Impact Report attached hereto as Attachment "A". Annual tax revenues generated by this project for the City, including property tax, gross receipts tax and parking revenue are estimated to generate \$11,708,586 dollars annually.

(d) **Other:**

(i) **Disaster Relief Facility:** Q/E's indoor multipurpose facility will have the capacity to shelter approx. 3,000 people or approx. 500 stock animals in the case of a disaster or emergency situation for the City of Santa Fe and the County of Santa Fe as well as the entire northern region of the State of New Mexico. Currently, there is no indoor facility of this size in northern New Mexico that could serve as a disaster relief facility. The City and the Rodeo De Santa Fe will enter into a Professional Services Agreement, setting forth the procedures for the City's use of the indoor facility at the Rodeo De Santa Fe in the event of a disaster or emergency situation.

(ii) **In Kind Contributions to the Community:**

(3) Ensuring that the city's economic prosperity is shared equitably;

(4) Fostering the region's economic development while preserving its unique and diverse quality of life;

(5) Using the region's sustainable natural, financial, intellectual, technological and physical resources;

(6) Diversifying the economic base of the City to support a vibrant and sustainable mix of jobs and opportunities.

B. Contributions of the City and the Q/E: This Agreement only covers the \$100,000 set forth in Paragraph 1. B. (1). If the City secures additional public funding for the completion of the construction of the Project, the City will enter into a new Project Participation Agreement with new financial, job and other contributions and security provided by the Q/E for the additional public funding.

(1) Donation and Services of the City. Contingent upon preconditions set forth in (a), (b) and (c) of this Paragraph B. (1), the City of Santa Fe shall grant gross receipts tax bond funds to the Q/E in an amount, not to exceed \$100,000 (hereinafter referred to as the "Funds"). The Funds dispersal by the City are contingent upon the:

(a) issuance and sale of sufficient gross receipts tax ("GRT") bonds for the purpose of procuring, in accordance with the City Procurement Policy, as amended, and State law, a contractor's (the "Contractor") services in preparing and delivering to the City and the Q/E a feasibility study that shall be the basis for securing additional funding for the planning, designing and construction of an indoor multipurpose facility for the following purposes; an indoor facility for disaster relief; rodeo events, sports events; and entertainment events (hereinafter referred to as the "Project"); and

(b) Q/E securing sufficient matching funds, either private or State, to fully fund the Contractor's services and said contract; and

(c) City's total contribution towards paying the Contractor will match the Rodeo's contribution on a 1:1 basis.

The Q/E has provided for the past 20 years and for the next five years shall continue to provide the following in-kind contributions to the community that have the following value to the City:

- Financial, technical and program support for a range of charities, to include but not be limited to, Four H, Boys and Girls Clubs, Wounded Warriors, Animal Humane Society, Special Olympics, Horses for Heroes, FFA and Junior Rodeo events and organizations. (5 year value is \$15,000); and
- Community outreach and education related to rural agricultural living and western heritage cultures. (5 year value is \$15,000); and
- Implementation of a policy of comprehensive and effective educational and vocational resource programs for local public and private schools to include but not be limited responsible "green" agricultural practices. (5 year value is \$15,000); and
- Money from fund raising that will assist in the success of afore-mentioned charities and scholarship programs for agricultural competitions and higher education opportunities for local youth. (5 year value is \$15,000); and
- Facilities and resources for local charities, schools and community groups. (5 year value is \$15,000); and
- Links between local organizations and resources and national and international organizations and resources with an emphasis on rural agricultural and western culture traditions and preservation. (5 year value is \$15,000); and
- Internship programs and professional development resources for not only at risk youth but also veterans, immigrant populations, and person with disabilities. (5 year value is \$15,000)

2. PERFORMANCE REVIEW AND CRITERIA

A. At Completion of Construction: Upon final disbursement of the City's Funds, the City will provide the Q/E with an accounting of funding.

B. Annual Review. For five years, the Q/E will provide reports on biannually in the months of January and June of each year to the City's Governing Body, the Business and Quality of Life Committee and City Staff. City Staff shall review of these reports to ensure the Q/E's compliance with this Agreement. The bi-annual reports shall clearly indicate how the Q/E has met the revenue assumptions, job creation, taxes generated and other indices contained in the Economic Impact Report (see attachment "A"). The review shall determine whether the project is in compliance with this Agreement and is substantially achieving the goals and objectives herein.

C. Termination for failure to meet Contributions and Obligations In the event the Q/E does not substantially fulfill the Contributions and Obligations set forth in Paragraph 1. B. 2 and 3, the City may terminate this Agreement and recover all or a pro-rata portion of this investment of the Funds in accordance with the TERMINATION paragraph 5, herein.

3. SECURITY FOR CITY'S INVESTMENT

Q/E will simultaneous to the execution of this Agreement, execute the attached Letter of Credit (Attachment B hereto) in favor of the City in the amount of \$100,000.

4. TERM

This Agreement shall remain in force for five (5) years from the start of the Agreement or until conditions of the Agreement are performed in full or to the satisfaction of the City. In the event that the Q/E performs or exceeds the required PERFORMANCE REVIEW AND CRITERIA, Paragraph 2 herein, this Agreement may be terminated at an earlier date, in writing by the City.

5. TERMINATION

This Agreement may be terminated by the City upon written notice delivered to the Q/E at least 45 days prior to the intended date of termination in the event that the Q/E-is found to not be in substantial compliance with the terms of this Agreement and if so terminated, the City shall have the right to demand an immediate return of the Funds by the Q/E, execute upon its Mortgage and Lien and pursue any and all other available legal remedies.

6. STATUS OF THE Q/E

The Q/E, and its agents and employees are not employees of the City. The Q/E, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles or any other benefits afforded to employees of the City as a result of this Agreement.

7. ASSIGNMENT

The Q/E shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

8. LIABILITY

It is expressly understood and agreed by and between Q/E and the City that Q/E shall defend, indemnify and hold harmless the City for all losses, damages, claims or judgments on

account of any suit, judgment, execution, claims, actions or demands whatsoever resulting from Q/E's actions or inactions as a result of this Agreement. Q/E shall maintain adequate insurance in at least the aggregate maximum amounts which the City could be liable consistent with the provisions of the New Mexico Tort Claims Act. It is the sole responsibility of the Q/E to be in compliance with the law.

9. **INSURANCE**

A. The Q/E, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City will be notified within 10 days of cancellation for any reason. The Q/E shall furnish the City with a copy of a "Certificate of Insurance" as a condition prior to performing services under this Agreement.

B. If applicable, the Q/E shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Q/E's employees throughout the term of this Agreement. Q/E shall provide the City with evidence of its compliance with such requirement.

C. The Q/E's Contractor that performs the feasibility study shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage of one million dollars (\$1,000,000) per occurrence. The Q/E's contractor that performs the feasibility study shall furnish the Q/E and the City with Proof of Insurance as a condition prior to performing services under this Agreement.

10. **NEW MEXICO TORT CLAIMS ACT**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

11. THIRD PARTY BENEFICIARIES

By entering into this Agreement the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Q/E. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

12. RECORDS AND AUDITS

The Q/E shall maintain detailed time records which indicate the date and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment; payments under this Agreement shall not foreclose the right of the City to recover excessive illegal payments.

13. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate immediately upon written notice being given by the City to the Q/E.

14. RELEASE

The Q/E, upon final fulfillment of this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Q/E agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Q/E has express written authority to do so, and then only within the strict limits of that authority.

15. CONFIDENTIALITY

Any confidential information provided to or developed by the Q/E in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Q/E without the prior written approval of the City.

16. CONFLICT OF INTEREST

The Q/E warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement.

17. AMENDMENT

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

18. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, or understandings have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

19. REPRESENTATIONS AND WARRANTIES

A. The Q/E hereby warrants the Q/E is and will remain in compliance with the Americans with Disabilities Act, 29 CFR 1630.

20. APPLICABLE LAW

This Agreement shall be governed by the ordinances of the City of Santa Fe and the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SIGNATURES BEGIN ON NEXT PAGE

CITY OF SANTA FE:

David Coss
David Coss, Mayor

ATTEST:

Yolanda Y. Vigil
Yolanda Y. Vigil, City Clerk
12-14-11 cel/vtg.
APPROVED AS TO FORM:

Geno Zamora
Geno Zamora, City Attorney
4/5/12

QUALIFYING ENTITY:
Rodeo Property, Inc.

By: David Copher
David Copher, President, Rodeo Property Inc

CRS #: 02188962007
City of Santa Fe Business Registration Number:
12-00067298

APPROVED:

Melville Morgan
Dr. Melville Morgan
Director of Finance
and Administration
5/24/12

32214/0112900
Business Unit/Line Item



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

AMENDED - ITEM #1-2 AND ITEM #1-4

AFTERNOON SESSION - 5:00 P.M.

CITY CLERK'S OFFICE

DATE 12/13/11 TIME 2:05 pm

SERVED BY _____

RECEIVED BY [Signature]

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: Reg. City Council Meeting - November 30, 2011.
9. PRESENTATIONS
 - a) Employee of the Month for December 2011 - Keith Wilson, MPO Senior Planner. (5 Minutes)
 - b) 2011 Boys Soccer City Champions Trophy Presentation - Capital High School. (5 minutes)
10. CONSENT CALENDAR
 - a) Request for Approval of Donation of One (1) Fire Department Vehicle (Type 1 Fire Engine) to the Penasco Volunteer Fire Department. (Robert Rodarte and Fire Chief Barbara Salas)
 - b) Request for Approval of Amendment No. 8 to Professional Services Agreement - Santa Fe Trail Project at Camino Alire to NM 599; Weston Solutions, Inc. (Formerly Resource Technology, Inc. or RTI). (Brian Drypolcher)
 - 1) Request for Approval of Budget Increase - Project Fund.





Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

- c) Request for Approval of Budget Increase from Railyard GRT Fund Into Santa Fe Railyard. (Bob Siqueiros)
- d) Request for Approval of Lease Agreement – Parking Area on Lot 33, Block 43 of N.L. Kings Official Map Located Within the 700 Block of Paseo De Peralta; Paseo Parkers, LLC. (Edward Vigil)
- e) Request for Approval of Procurement Under Cooperative Agreement – One (1) Backhoe and One (1) HD Loader for Wastewater Division; Adobe Truck and Equipment. (Bryan Romero)
 - 1) Request for Approval of Budget Increase – Wastewater Fund.
- f) Request for Approval of Amendment No. 1 to Professional Services Agreement – Reservoir Infrastructure Improvements - Phase I for Water Division; Santa Fe Engineering Consultants, LLC. (Robert Jorgensen)
- g) CONSIDERATION OF RESOLUTION NO. 2011-_____.
A Resolution Relating to a Request for Approval of First Quarter Budget Adjustments for Fiscal Year 2011/2012 Ending September 30, 2011. (Cal Probasco)
- h) CONSIDERATION OF RESOLUTION NO. 2011-_____. (Mayor Coss and Councilor Calvert)
A Resolution Adopting the City of Santa Fe Updated ADA Transition Plan and Self Evaluation. (Joseph Lujan)
- i) Request for Approval of Consideration to Fill Vacant Positions. (Robert Romero)
- j) Request for Approval to Publish Notice of Public Hearing on January 11, 2012:
 - 1) Bill No. 2011-46: An Ordinance Amending Section 14-8.14(E)(1) SFCC 1987 so that for a Period of Two Years, the Impact Fees for Residential Developments Shall be Reduced by 100%; and Making Such Other Necessary Changes. (Councilor Wurzburger, Councilor Ortiz and Councilor Dominguez) (Matthew O'Reilly)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

- 2) **Bill No. 2011-47: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Refunding Revenue Bonds, Series 2012b in an Aggregate Principal Amount Not to Exceed \$16,500,000 for the Purpose of Defraying the Cost of Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Variable Rate Revenue Bonds, Series 1997b; Providing that the Bonds will be Payable and Collectible From the Net Revenues of the City's Wastewater System and Certain Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement in Connection with the Bonds; Providing for Redemption of the Series 1997b Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Dr. Melville Morgan)**

- 3) **Bill No. 2011-48: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012a in an Aggregate Principal Amount Not to Exceed \$40,000,000 for the Purpose of Defraying the Cost of (1) Public Projects Related to Public Utilities, Public Works, Parks and Recreation, and Community Services as Authorized By Law and the City's Home Rule Powers and (2) Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2004; Providing that the Bonds will be Payable and Collectible From the Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement and an Escrow Agreement; Providing for Redemption of the Series 2004 Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Dr. Melville Morgan)**



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

- 4) **Bill No. 2011-49: An Ordinance Amending Section 7-4.2 SFCC 1987 Regarding the Administration of the Residential Green Building Code; Repealing Exhibit A to Chapter VII SFCC 1987, Santa Fe Residential Green Building Code; and Adopting a New Exhibit A to Chapter VII SFCC 1987, Santa Fe Residential Green Building Code, to be Consistent with the National Green Building Standard. (Councilor Calvert) (Katherine Mortimer)**
- a) **A Resolution Repealing Resolution No. 2009-42, Resolution No. 2009-73 and Resolution 2010-63 that Adopted and Amended the Administrative Procedures for the Santa Fe Residential Green Building Code; and Adopting Updated Administrative Procedures for the Santa Fe Residential Green Building Code to be Consistent with the National Green Building Standard. (Councilor Calvert) (Katherine Mortimer)**
- 5) **Bill No. 2011-50: An Ordinance Amending Section 25-1.3 SFCC 1987 to Exempt State Educational Institutions from Being Required to Comply with Chapter 14 SFCC 1987 (Land Development Laws) when Applying for City Water and Making Other Such Changes as are Necessary (Councilor Romero, Mayor Coss, Councilor Trujillo, Councilor Calvert and Councilor Dominguez) (Matthew O'Reilly and Brian Snyder)**
- k) **CONSIDERATION OF RESOLUTION NO. 2011-_____. (Mayor Coss and Councilor Calvert)**
A Resolution Supporting the Efforts of the Community, Labor and Faith Organizations, the New Mexico Attorney General, the New Mexico Department of Workforce Solutions, and the United States Department of Labor to Eliminate the Practice of Wage Theft in New Mexico. (Postponed at November 30, 2011 City Council Meeting)
- l) **CONSIDERATION OF RESOLUTION NO. 2011-_____. (Mayor Coss)**
A Resolution Recognizing the Gift of a Bronze Statue From the Pueblo of Pojoaque and Artist George Rivera to the Petry Family in Honor of Sergeant First Class Leroy Arthur Petry, a Native Santa Fean and Medal of Honor Recipient; Accepting with Gratitude the Bronze Statue as a Donation from the Petry Family to the City; and Supporting the Placement of the Statue on the Southeast Lawn of City Hall, Along Lincoln Avenue. (Sabrina Pratt)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

11. **CONSIDERATION OF RESOLUTION NO. 2011-_____.** (Councilor Calvert)
A Resolution Supporting Federal Legislation to Enact the *Sensible Accounting to Value Energy Act*. (The "Save Act"). (Katherine Mortimer)
12. **CONSIDERATION OF RESOLUTION NO. 2011-_____.** (Councilor Romero, Councilor Dominguez, Councilor Wurzbarger and Councilor Calvert)
A Resolution Supporting the 2012 Farm Bill Priorities as a Means to Securing a Regional Food System that is Just and Accessible for All Residents of the City of Santa Fe. (Katherine Mortimer)
13. **Case #2011-125.** – Request for Approval of the Recommendation of the City Attorney Pursuant to Santa Fe City Code §14-3.17(D)(6) that the Governing Body Dismiss the Appeal of Norman Lagasse as Agent for Ida A. Rajotte from the October 6, 2011 Decision of the Summary Committee Approving a Lot Split for a Parcel of Land Located at the Corner of Camino Carlos Rey and the Arroyo de Los Chamisos. (Kelley Brennan)
14. **Case #2011- 126** – Request for Approval of the Recommendation of the City Attorney Pursuant to Santa Fe City Code §14-3.17(D)(6) that the Governing Body Dismiss the Appeal of Mark Graham from the October 26, 2011 Issuance of Building Permit #11-2071 for Construction of a Stucco Wall and Coyote Fence at 4555 Camino Placitas. (Kelley Brennan)
15. **Case #2011-64.** Ft. Marcy 14 Upgrade Project. Public Service Company of New Mexico (PNM), is Presenting an Accounting to the Governing Body Pursuant to Section 14-6.2(G)(7) SFCC 1987, for the Undergrounding of Approximately 11,700 Linear Feet of Electrical Lines Between Bishop's Lodge Road and Hyde Park Road. The Governing Body may (1) Direct the Applicant to Seek Approval of the New Mexico Public Regulation for an Additional Fee to be Paid by all City Customers to Cover the Cost of Undergrounding; or (2) Allocating City Funds to Cover the Cost or Partial Cost of Undergrounding; or (3) Authorizing the Applicant to Construct the Aboveground Electrical Lines. (Dan Esquibel and Marcos Martinez)
16. **MATTERS FROM THE CITY MANAGER**



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

17. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION

- a) Discussion of the Purchase, Acquisition or Disposal of Real Property by the City of Santa Fe, Office Space Lease Agreement, 500 Market Street, Suite 200 at the Railyard; with Railyard Company LLC, Pursuant to §10-15-1(H)(8), NMSA 1978, and Discussion of Threatened or Pending Litigation in Which the City of Santa Fe Is or May Become a Participant Involving Railyard Company, LLC in Accordance with §10-15-1(H)(7), NMSA 1978.
- b) Pursuant to City of Santa Fe Resolution No. 2010-24, Discussion of Threatened or Pending Litigation in which the City of Santa Fe is or May Become a Participant, in Accordance with §10-15-1(H)(7), NMSA 1978.

18. Action Regarding the Purchase, Acquisition or Disposal of Real Property by the City of Santa Fe, Office Space Lease Agreement, 500 Market Street, Suite 200 at the Railyard; with Railyard Company LLC, and Regarding Threatened or Pending Litigation in Which the City of Santa Fe Is or May Become a Participant Involving Railyard Company, LLC. (Geno Zamora)

19. MATTERS FROM THE CITY CLERK

20. 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



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

H. Presentation of Proclamation – St. Elizabeth Shelter Day: (Deborah Tang)
(5 Minutes)

I. PUBLIC HEARINGS:

- 1) Request for Approval of the Rodeo de Santa Fe Indoor Arena Project Participation Agreement for a Feasibility Study. (Mayor Coss) (Fabian Trujillo)
- 2) **Case #2011-106. Appeal.** Sommer Karnes & Associates, LLP, Agent for Mark and Beth Jernigan, Appeals the August 23 and September 13, 2011 Decisions of the Historic Design Review Board in Case #H-11-079A Designating the Main House and the Guest House at 1041 Camino Cruz Blanca as Significant. (David Rasch and Kelley Brennan) (Postponed to January 11, 2012 City Council Meeting)
- 3) **CONSIDERATION OF BILL NO. 2011-25: ADOPTION OF ORDINANCE NO 2011-_____.** (Councilor Ortiz)
An Ordinance Amending Section 11-2.2 SFCC 1987 and Creating a New Section 11-2.6 SFCC 1987 Limiting General Fund Personnel Costs. (Dr. Melville Morgan) (Postponed at August 10, 2011 City Council Meeting) (Withdrawn by Sponsor)
- 4) Request from Mirador Gallery for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Alcohol at Mirador Gallery, 616 Canyon Road, which is Within 300 Feet of the Santa Fe Monthly Meeting of Friends Quaker Church, 630 Canyon Road and the Acequia Madre Elementary School, 700 Acequia Madre. The Request is for an Art Reception/Christmas Eve Party to be held on December 24, 2011 from 4:30 p.m. to 11:30 p.m.

J. ADJOURN

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been addressed, the meeting should be reconvened at 7:00 p.m., the following day and shall be adjourned not later than 12:00 a.m. Agenda items, not considered prior to 11:30 p.m., shall be considered when the meeting is reconvened or tabled for a subsequent meeting.

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 955-6520, five (5) days prior to meeting date.

H. PRESENTATION OF PROCLAMATION – ST. ELIZABETH SHELTER DAY. (DEBORAH TANG)

Mayor Coss read a proclamation into the record, declaring December 15, 2011, St. Elizabeth Shelter Day in Santa Fe. He thanked them for their 25 years of service, and for all they do, saying it has made a huge difference in Santa Fe.

Deborah Tang thanked the City for its support in making the 25 years happen.

I. PUBLIC HEARINGS

1) REQUEST FOR APPROVAL OF THE RODEO DE SANTA FE INDOOR ARENA PROJECT PARTICIPATION AGREEMENT FOR A FEASIBILITY STUDY (MAYOR COSS). (FABIAN TRUJILLO)

Fabian Trujillo presented information from his Memorandum of December 13, 2011, which is in the Committee packet.

Public Hearing

Speaking to the request

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Wurzbarger moved, seconded by Councilor Bushee, to approve this request with the amendment from the Business and Quality of Life Committee, which requires a 6 month and 12 month report, to ensure we are in the loop and know what is happening. She said a lot has been promised, especially by the consultants with respect to jobs, and they want this information sooner rather than later.

DISCUSSION: Mayor Coss thanked the members of the Rodeo Association, commenting he thinks it is good for the Rodeo to stay where it is because it is part of our history and culture, as well as a great draw to Santa Fe. He thanked them for all the work they've done.

Councilor Bushee thanked everyone for their work and wished them well in their endeavors with the State Legislature, and congratulated Dave and Sally on their marriage.

Councilor Dominguez said he would echo what the Mayor and Councilor Bushee have said. He thinks it's a wonderful opportunity to have a Rodeo in the middle of the City. He thanked them for keeping it a part of our City as well.

Mayor Coss thanked Fabian Chavez for shepherding everyone through this process.

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

For: Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Trujillo and Councilor Wurzburger.

Against: None.

- ~~2) **CASE #2011-106, APPEAL. SOMMER KARNES & ASSOCIATES, LLP, AGENT FOR MARK AND BETH JERNIGAN, APPEALS THE AUGUST 23 AND SEPTEMBER 13, 2011, DECISIONS OF THE HISTORIC DESIGN REVIEW BOARD IN CASE #H-11-079A, DESIGNATING THE MAIN HOUSE AND THE GUEST HOUSE AT 1041 CAMINO CRUZ BLANCA AS SIGNIFICANT. (DAVID RASCH AND KELLEY BRENNAN) Postponed to January 11, 2012 City Council Meeting.**~~

~~This item is postponed to the January 11, 2012 City Council meeting.~~

- ~~3) **CONSIDERATION OF BILL NO. 2011-25, ADOPTION OF ORDINANCE NO. 2011-___ (COUNCILOR ORTIZ). AN ORDINANCE AMENDING SECTION 11-2-2 SFCC 1987 AND CREATING A NEW SECTION 11-2-6 SFCC 1987, LIMITING GENERAL FUND PERSONNEL COSTS. (DR. MELVILLE MORGAN) (POSTPONED AT AUGUST 10, 2011 CITY COUNCIL MEETING) (Withdrawn by Sponsor)**~~

~~This item has been withdrawn by the sponsor.~~

- ~~4) **REQUEST FROM EL MIRADOR GALLERY FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF ALCOHOL AT MIRADOR GALLERY, 616 CANYON ROAD, WHICH IS WITHIN 300 FEET OF THE SANTA FE MONTHLY MEETING OF FRIENDS QUAKER CHURCH, 630 CANYON ROAD AND THE ACEQUIA MADRE ELEMENTARY SCHOOL, 700 ACEQUIA MADRE. THE REQUEST IS FOR AN ART RECEPTION/CHRISTMAS EVE PARTY TO BE HELD ON DECEMBER 24, 2011, FROM 4:30 P.M. TO 11:30 P.M.**~~

~~A copy of a Memorandum dated December 14, 2011, with attachments, to Mayor Coss & City Councilors, from Yolanda Y. Vigil, City Clerk, regarding this request, is incorporated herewith to these minutes as Exhibit "20."~~

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

This Memorandum of Understanding ("MOU") is made and entered into by and between the City of Santa Fe (the "City") and the County of Santa Fe ("County"). The date of this Agreement shall be the date when it is executed by the City and the County, whichever occurs last.

WITNESSETH:

WHEREAS, the New Mexico Local Economic Development Act, NMSA 1978, Section. 5-10-1 et seq. permits municipalities to assist qualifying entities with economic development projects through the use of public resources;

WHEREAS, the City has complied with the requirements of the Local Economic Development Act by adopting an economic development plan ordinance incorporating within that ordinance its community economic development plan, (11-11 SFCC (1987) Community Economic Development Plan and its Economic Development Strategy for Implementation, dated May 21, 2008;

WHEREAS, the City determined that it was in the interest of the welfare of the citizens of Santa Fe to enter into a Local Economic Development Act Project Participation Agreement (hereinafter "PPA") between the Rodeo Property, Inc, a New Mexico non-profit corporation, and the City for the purposes of effectuating the City's Economic Development Plan;

WHEREAS, on December 14, 2011 the City approved the Economic Development PPA between the City and Rodeo Property, Inc. whereby Rodeo Property, Inc., as a "Qualifying Entity" would receive \$100,000 in funding from the City for a project that would support the City's Economic Development Plan. Attached hereto are Exhibit A, the signed PPA dated 14, 2011 and the City's Meeting Agenda and Minutes as Exhibit B;

WHEREAS, pursuant to the PPA, the dispersal of \$100,000 by the City is contingent on: (1) the City's issuance and sale of sufficient gross receipts tax bonds for the purpose of procuring a contractor to complete a feasibility study that shall be the basis for securing additional funding for the planning, designing and construction of an indoor multipurpose facility, and (2) Rodeo Property, Inc. securing sufficient matching funds in the amount of \$100,000 to fully fund the feasibility study;

WHEREAS, the indoor multipurpose facility shall be designated for the following purposes: an indoor facility for disaster relief, rodeo events, sports events, and entertainment events (hereinafter referred to as the "Project");



WHEREAS, the City has issued gross receipt tax bonds sufficient to fund the feasibility study and Rodeo Property, Inc. has secured sufficient matching funds to fully fund the feasibility study;

WHEREAS, in the 2012 Legislative Session the State Legislature appropriated \$81,000 in severance tax bonds to the Rodeo Property, Inc. to plan, design, construct, equip and furnish an indoor multiuse area and regional disaster relief facility at the Rodeo de Santa Fe grounds in Santa Fe. The Local Government Division of the Department of Finance and Administration intends to grant to the Rodeo Property, Inc. \$81,000 for the Project which will serve to partially fulfill the match requirements of the PPA;

WHEREAS, Rodeo Property, Inc.'s match required under the PPA consist of the \$81,000 State Appropriation and through Santa Fe County Resolution 2012-78, \$19,000 in funds from the County which together provide a full match for the City's \$100,000 contribution toward the completion of the Project;

WHEREAS, the City's total contribution (\$100,000) towards paying the for the completion of a feasibility study will match Rodeo Property Inc. (\$81,000) and the County's contributions (\$19,000) on a 1:1 basis;

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Purpose

The purpose of this MOU to summarize the understanding of the City and the County for the transfer and expenditure of \$19,000 from the County for the purpose of serving as a partial match of City funds as set forth in the PPA. The goal of this match is to enhance the Rodeo de Santa Fe Local Economic Development Project that will improve the economy of the City and the County. The Project referred to herein is the completion of a feasibility study for the design, construct and completion of a multipurpose indoor facility at the Rodeo de Santa Fe grounds for use during disaster relief, rodeo events, sports events and entertainment events.

2. Scope of Understanding and Responsibilities of the Parties

The County shall:

A. Upon the approval of this MOA, the County shall issue a check in the amount of Nineteen Thousand Dollars (\$19,000) to the City for the purpose of funding a feasibility study to plan, design, construct, complete and equip the Project.

The City shall:

A. In compliance with the PPA, execute a Grant Agreement with the Local Government Division of the Department of Finance and Administration for the \$81,000 State appropriation.

B. Receive \$19,000 from the County and designate the expenditure of such contribution toward the feasibility study to plan, design, construct, complete and equip the Project.

C. In compliance with the PPA, the City shall allocate a not-to-exceed amount of \$100,000 to contract for the completion of a feasibility study to plan, design, construct, complete and equip the Project at the Rodeo de Santa Fe grounds in Santa Fe County.

D. Upon completion of the Project, the City shall provide a written report to the County identifying and itemizing the City's expenditure of the County's matching funds. Such report shall include copies invoices and corresponding cancelled checks.

3. Term

This MOU shall expire on June 30, 2013 unless otherwise extended by both the County and the City in writing in no less than 30 days prior to the expiration of this Agreement.

4. Termination

This MOU may be terminated by either of the parties hereto upon written notice delivered to the other party at least 30 days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

5. Liability

Neither party shall be liable for any claim, action demand, suit or judgment arising from the other party's performance under this MOU or the performance of the of the other parties' agents, officers, employees, representatives and subcontractors. Both parties shall only be liable for any claim, action, demand, suit or judgment arising from its own performance under this MOU or the performance of its own agents, officers, employees, representatives and subcontractors.

6. Status of City and County

The City and the County are separate legal entities. The City's agents and employees are not employees or agents of the County. The County's agents and employees are not employees of the City. No powers of the County, expressed or implied, shall be granted to the City on behalf of the County, excepting those set forth herein.

7. New Mexico Tort Claims Act

By entering into this MOU, neither party shall be responsible for liability incurred as a result of the party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, et seq. as amended. This paragraph is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. The City and its "public employees" as defined in the New Mexico Tort Claims Act, and the County and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

8. Third Party Beneficiaries

By entering into this MOU the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the County. No person shall claim any right, title or interest under this MOU or seek to enforce this MOU as a third party beneficiary of this MOU.

9. Amendment

This MOU shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

10. Notices

Any notices required to be given under this MOU shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

City of Santa Fe:

**City Manager
P. O. Box 909
Santa Fe, NM 87504-0909**

County:

**County Manager
County of Santa Fe
P.O. Box 276
102 Grant Avenue
Santa Fe, NM 87504-0276**

11. Confidentiality

Any confidential information provided to or developed by either party in the performance of this MOU shall be kept confidential and shall not be made available to any individual or organization by the other party without the prior written approval of the other party.

12. Conflict of Interest

Both parties warrant that they presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this MOU.

13. Assignment; Subcontracting

Neither party shall assign or transfer any interest in this MOU or assign any claims for money due or to become due under this MOU without the prior written approval of the other party.

14. Release

Both parties release each other, their officers and employees, from all liabilities, claims, and obligations whatsoever arising from or under this MOU. The parties agrees not to purport to bind each other to any obligation not assumed herein by the parties unless the parties have express written authority to do so, and then only within the strict limits of that authority.

15. Third Party Beneficiaries

By entering into this MOU the parties do not intend to create any right, title, or interest in or for the benefit of any person other than the City and the County. No person shall claim any right, title, or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

16. Records and Audit

The City shall maintain detailed time records that indicate the date, time, and nature of its expenditure of the County's \$19,000 contribution and the services rendered by its contractor. These records shall be subject to inspection by the County. The County shall have the right to audit the billing both before and after payment; payment under this Agreement shall not foreclose the right of the County to recover excessive illegal payments.

17. Applicable Law

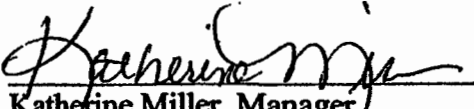
This MOU shall be governed by the ordinances of the City of Santa Fe, the ordinances of Santa Fe County, and the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties set their hands.

CITY OF SANTA FE:

COUNTY OF SANTA FE:

David Coss, Mayor
City of Santa Fe



Katherine Miller, Manager
Santa Fe County

DATE: _____

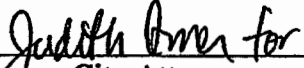
DATE: 11.7.12

ATTEST:

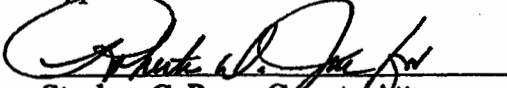
Yolanda Y. Vigil, Clerk
City of Santa Fe

Approved as to form:

Approved as to form:



Geno Zamora, City Attorney
City of Santa Fe
11/8/12

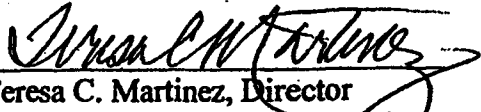


Stephen C. Ross, County Attorney
Santa Fe County

Approved:

Dr. Melville Morgan
Finance Director
City of Santa Fe

Approved:



Teresa C. Martinez, Director
Finance Department, Santa Fe County

SANTA FE COUNTY

RESOLUTION NO. 2012 - 78

**A RESOLUTION ADOPTING THE FINAL
2012-2013 (FY2013) BUDGET**

WHEREAS, the Santa Fe County Board of County Commissioners (BCC), the governing body in and for the County of Santa Fe, State of New Mexico, held an official meeting on May 29, 2012, for the study and review of a 2012-2013 (FY 2013) budget, with recognition of sources and uses of funds of said budget;

WHEREAS, the meeting on May 29, 2012, was duly advertised in compliance with the State Open Meetings Act and the Federal Statement of Assurances pertaining to the requirements for revenue funds, and the budget was duly approved at the meeting; and

WHEREAS, the State of New Mexico, Department of Finance and Administration, Local Government Division granted interim approval of the proposed operating budget for the 2012-2013 year (FY 2013) with documentation and technical adjustments as required.

NOW, THEREFORE, BE IT RESOLVED, that the BCC hereby adopts the 2012-2013 (FY 2013) "Final Budget" and respectfully requests final approval from the Local Government Division of the Department of Finance and Administration.

APPROVED, ADOPTED AND PASSED this 26th day of June 2012.

BOARD OF COUNTY COMMISSIONERS



Liz Stefamics, Chairperson

ATTEST:



Valerie Espinoza, County Clerk



APPROVED AS TO FORM:



Stephen C. Ross, County Attorney



TY OF SANTA FE)
E OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 2

reby Certify That This Instrument Was Filed for
rd On The 27TH Day Of June, 2012 at 09:46:42 AM
Was Duly Recorded as Instrument # **1673442**
he Records Of Santa Fe County

ty Marcella Alvarez
Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM



SANTA FE COUNTY

Resolution No. 2011-106

A RESOLUTION SUPPORTING THE RODEO DE SANTA FE CONTRIBUTIONS TO SANTA FE COUNTY

WHEREAS, Rodeo de Santa Fe (the "Rodeo") began in 1949 when Gene Petchesky and Austin "Slim" Green had a dream and the determination to organize a rodeo in Santa Fe;

WHEREAS, this dream exceeded their expectations and became what is today, one of the top 100 rodeos in the nation sanctioned by the Professional Rodeo Cowboys' Association (PRCA);

WHEREAS, over 600 PRCA Cowboys & Women's Professional Rodeo Associations (WPRA) from all over the United States compete in the annual event;

WHEREAS, the Rodeo is a fun-filled family event for residents of Santa Fe and northern New Mexico as well as tourists visiting our community;

WHEREAS, the Rodeo boards horses during fire, disaster, and heavy storms;

WHEREAS, the Rodeo has served as an evacuation center for regional and statewide needs during state of emergencies for livestock, etc.

WHEREAS, the Rodeo grounds provide affordable stabling and layover for equestrian and agricultural livestock, interstate and intrastate transport teams;

WHEREAS, the Rodeo has a national reputation for excellence;

WHEREAS, the Rodeo and the Santa Fe County Fair Board share a common mission to preserve and promote rural and agricultural traditions and culture of New Mexico;

WHEREAS, the Rodeo has been a strong supporter of the Santa Fe County Fair through networking and the sharing of facilities and resources; and

WHEREAS, the Rodeo and its annual events have built an impeccable reputation as a charitable and responsible member of the Santa Fe community and region.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS HEREBY RESOLVES that the County of Santa Fe recognizes the benefits of the Rodeo de Santa Fe to the County and the County Fairgrounds property.

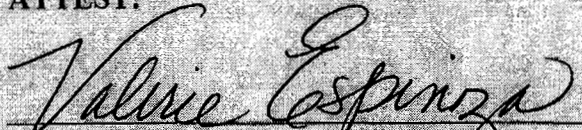
PASSED, APPROVED, and ADOPTED this 9th day of August 2011.

NO. 10688 RECORDED BY 107/2011

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

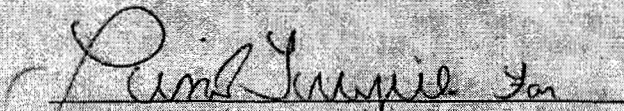

Virginia Vigil, Chair

ATTEST:


Valerie Espinoza, Santa Fe County Clerk



APPROVED AS TO FORM:

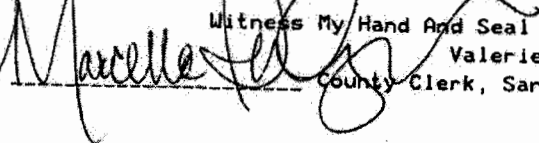

Stephen C. Ross, Santa Fe County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 2

I Hereby Certify That This Instrument Was Filed for
Record On The 10TH Day Of August, 2011 at 10:42:06 AM
And Was Duly Recorded as Instrument # **1642283**
Of The Records Of Santa Fe County

Deputy )
Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

FILED BY JES 8/10/11 10:42 AM

CITY OF SANTA FE
ECONOMIC DEVELOPMENT
AMENDED PROJECT PARTICIPATION AGREEMENT

THIS AMENDED PROJECT PARTICIPATION AGREEMENT (hereinafter referred to as “ Amended PPA”) is made and entered into this 27th day of February, 2013 by and between the City of Santa Fe, hereinafter referred to as the “City”; and Rodeo Property, Inc., hereinafter referred to as the “Qualifying Entity” (Q/E). This Amended PPA supersedes and entirely replaces the Project Participation Agreement (“Original PPA”) entered into between the City and the Q/E on December 14, 2011.

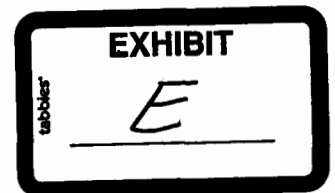
WHEREAS, the State of New Mexico has deemed it in the best interest of the citizens of New Mexico to enact the Local Economic Development Act (N.M. Stat. Ann. 5-10-1 et seq. (1978));

WHEREAS, the Local Economic Development Act explicitly permits municipalities to assist qualifying entities with economic development projects through the use of public resources;

WHEREAS, the City of Santa Fe has complied with the requirements of its Local Economic Development Act by adopting an economic development plan ordinance incorporating within that ordinance its community economic development plan (11-11 SFCC (1987)), its Community Economic Development Plan and its Economic Development Strategy for Implementation dated May 21, 2008;

WHEREAS, the City of Santa Fe has complied with the requirement of its Local Economic Development Ordinance, 11-11.1 through 11-11.16, by adopting the Original PPA and this Amended PPA which state the contributions and obligation of all parties in the economic development project. The Original PPA and Amended PPA clearly state the following:(1)The economic development goals of the project; (2) The contributions of the City and the Q/E; (3) The specific measurable objectives upon which the performance review will be based; (4) A schedule for project development and goal attainment; (5) The security being offered for the City's investment; (6) The procedures by which a project may be terminated and the City's investment recovered; (7) The time period for which the City shall retain an interest in the project; and (8) a "sunset" clause after which the City shall relinquish interest in and oversight of the project;

WHEREAS, on December 14, 2011 the City approved the Economic Development PPA between the City and Rodeo Property, Inc. whereby Rodeo Property, Inc., as a “Qualifying Entity” would receive \$100,000 in funding from the City for a project that would support the



City's Economic Development Plan. Attached hereto are the signed PPA dated December 14, 2011 as Exhibit A and the City's Meeting Agenda and Minutes as Exhibit B;

WHEREAS, the City's Governing Body adopted the Rodeo Project Economic Development Ordinance #2013-2, and approved this Amended Project Participation Agreement, at a public hearing held on January 9, 2013;

WHEREAS, pursuant to the PPA, the dispersal of \$100,000 by the City is contingent on: (1) the City's issuance and sale of sufficient gross receipts tax bonds for the purpose of procuring a contractor to complete a feasibility study that shall be the basis for securing additional funding for the planning, designing and construction of an indoor multipurpose facility, and (2) Rodeo Property, Inc. securing sufficient matching funds in the amount of \$100,000 to fully fund the feasibility study;

WHEREAS, the indoor multipurpose facility shall be designated for the following purposes: an indoor facility for disaster relief, rodeo events, sports events, and entertainment events (hereinafter referred to as the "Project");

WHEREAS, the City has issued gross receipt tax bonds sufficient to fund the planning portion of the Project (a planning/feasibility study) and the Q/E. has secured sufficient matching funds to fully fund the feasibility study as follows;

WHEREAS, in the 2012 Legislative Session the State Legislature appropriated \$81,000 in severance tax bonds to plan, design, construct, equip and furnish an indoor multiuse area and regional disaster relief facility at the Rodeo de Santa Fe grounds in Santa Fe. The Local Government Division of the Department of Finance and Administration intends to grant to the Rodeo Property, Inc. \$81,000 for the Project which, after execution of the Grant Agreement, will serve to partially fulfill the match requirements of the Original PPA;

WHEREAS, in order to totally fulfill the match requirement of the Original PPA, and pursuant to Santa Fe County Resolution 2012-78, the Rodeo de Santa, the City and Santa Fe County are in the process of negotiating a Memorandum of Understanding whereby the County would transfer \$19,000 to the City to serve as the remaining sufficient matching funds for the City's \$100,000 in GRT funds. After the MOU is executed and the Grant Agreement is executed, the Rodeo Property, Inc.'s match required under the PPA will consist of the \$81,000 State Appropriation and through, \$19,000 in funds from the County which together provide a full match for the City's \$100,000 contribution toward the completion of the Project. See, attached MOU as Exhibit C and Resolution 2012-78 as Exhibit D;

WHEREAS, the City's total contribution (\$100,000) towards paying the for the completion of a feasibility study will match Rodeo Property Inc. (\$81,000) and the County's contributions (\$19,000) on a 1:1 basis;

WHEREAS, the City of Santa Fe has determined that it is in the interest of the welfare of the citizens of Santa Fe to enter into this Economic Development Project Participation Agreement for the purposes of effectuating its Economic Development Plan.

NOW THEREFORE, in consideration of the premises, the following and other good and valuable consideration the receipt of which is hereby acknowledged the undersigned parties hereby agree as follows.

1. **CONTRIBUTIONS OF THE CITY, THE STATE AND THE Q/E.**

A. Economic development goals of the project: The project addresses the following goals from the Community Economic Development Plan (CEDP):

(1) *Implementing comprehensive economic development policies that address both local and regional objectives;*

(2) *Directing major economic development initiatives toward creating opportunities for local residents that result in the steady improvement in the standard of living;*

(3) *Ensuring that the city's economic prosperity is shared equitably;*

(4) *Fostering the region's economic development while preserving its unique and diverse quality of life;*

(5) *Using the region's sustainable natural, financial, intellectual, technological and physical resources;*

(6) *Diversifying the economic base of the City to support a vibrant and sustainable mix of jobs and opportunities.*

B. Contributions of the City: This Agreement governs the City's contribution of \$100,000 as set forth in Paragraph 1. B.(1). If the City secures additional public funding for the plan, design and/or construction of the Project, the City will enter into a new Project Participation Agreement with new financial, job and other contributions and security provided by the Q/E for the additional public funding.

(1) Donation of the City Funds. Contingent upon preconditions set forth in (a), (b) and (c) of this Paragraph B. (1), the City of Santa Fe shall grant gross receipts tax bond funds to the Q/E in an amount, not to exceed \$100,000 (hereinafter referred to as the "City Funds") to plan, design, construct, equip and furnish an indoor multiuse arena and

regional disaster relief facility at the Rodeo de Santa Fe in Santa Fe, New Mexico. The dispersal of the City Funds by the City are contingent upon the:

(a) issuance and sale of sufficient gross receipts tax (“GRT”) bonds for the purpose of procuring, in accordance with the City Procurement Policy, as amended, and State law, a contractor’s (the “Contractor”) services in preparing and delivering to the City and the Q/E a planning/feasibility study that shall be the basis for securing additional funding for the planning, designing and construction of an indoor multipurpose facility for the following purposes; an indoor facility for disaster relief; rodeo events, sports events; and entertainment events (hereinafter referred to as the “Project”); and

(b) Q/E securing sufficient matching funds, either private, County and/or State, to fully fund the Contractor’s services and said contract; and

(c) The City’s total contribution towards paying the Contractor is limited to a 1:1 match of the total amount that is granted to the City from other sources, either private, County and/or State. In other words, for every dollar the City receives from County, State and/or private sources for purposes of reimbursing the Q/E’s Contractor for performing the planning/feasibility study, the City will reimburse the Q/E one dollar as a match, not to exceed \$100,000 in City Funds.

C. Contributions of the State--2012 STB Capital Outlay appropriation 12-1483 – *Eighty-One thousand dollars (\$81,000) to plan, design, construct, equip and furnish an indoor multiuse arena and regional disaster relief facility at the rodeo de Santa Fe grounds in Santa Fe in Santa Fe county* (hereinafter referred to as the “2012 STB Funds”): This Agreement governs the State’s contribution of \$81,000 of 2012 STB Funds as set forth in Paragraph 1.C.(1). If the State appropriates future public funding for the Project and the State executes future grant agreements with the City granting that additional future public funding for the planning, designing and construction of the Project, the City will enter into a new Project Participation Agreement with new financial, job and other contributions and security provided by the Q/E for the additional public funding.

(1) Donation of the 2012 STB Funds. Contingent upon preconditions set forth in (a), and (b) of this Paragraph C.(1), the State and the City of Santa Fe shall grant an amount not to exceed \$81,000 of 2012 STB Funds to the Q/E to plan, design, construct, equip and furnish an indoor multiuse arena and regional disaster relief facility at the Rodeo de Santa

Fe in Santa Fe, New Mexico. The dispersal of the 2012 STB Funds by the State and the City are contingent upon the:

(a) execution of a grant agreement between the City and the Local Government Division of the Department of Finance and Administration to grant \$81,000 to the City to plan, design, construct, equip and furnish an indoor multiuse arena and regional disaster relief facility at the rodeo de Santa Fe grounds in Santa Fe in Santa Fe County; and

(b) delivering a request for reimbursement (“Payment Application”) to the City for the Q/E’s payment to the Contractor for a planning/feasibility study for the planning, designing and construction of an indoor multipurpose facility for the following purposes; an indoor facility for disaster relief; rodeo events, sports events; and entertainment events (hereinafter referred to as the “Project”); and

(2) Contributions and Obligations of the Q/E and Specific Measurable Objectives upon which the City shall base its Performance Review of the Q/E: The Q/E brings the following non-cash financial investment to the project.

(a) Direct and Indirect Jobs Creation: It is anticipated that after completion of the construction of the indoor multipurpose facility, the Q/E plans to employ 286 (direct), 114 (indirect), and 93 (induced) construction industry jobs over the course of construction, generating a \$16,170,250 in total estimated payroll. Once the Project is completed, it is anticipated to create 68 full time jobs and 70 per event part-time jobs; and by year five, it is estimated there will be 68 full time employees and 70 per event part time employees in the building. See Attachment “A” for Report of the Economic Impact of Rodeo De Santa Fe on Santa Fe, NM, prepared by Impact DataSource (the “Economic Impact Report”).

(b) Expanded Tax Base: It is anticipated that after completion of the construction of the indoor multipurpose facility, the Project will make contributions to the City’s tax base resulting from this project are enumerated in the Economic Impact Report attached hereto as Attachment “A”. Annual tax revenues generated by this project for the City, including property tax, gross receipts tax and parking revenue are estimated to generate \$11,708,586 dollars annually.

(c) Disaster Relief Facility: Q/E’s indoor multipurpose facility will have the capacity to shelter approx. 3,000 people or approx. 500 stock animals in the case of a disaster or emergency situation for the City of Santa Fe and the County of Santa Fe as well as the entire northern region of the State of New Mexico. Currently, there is no indoor facility of this size in northern New Mexico that could serve as a disaster relief facility. The City and the Rodeo De Santa Fe will enter into a Professional Services Agreement, setting forth the procedures for the

City's use of the indoor facility at the Rodeo De Santa Fe in the event of a disaster or emergency situation.

(d) In Kind Contributions of the Q/E to the Community: The Q/E has provided for the past 20 years and for the next five years shall continue to provide the following in-kind contributions to the community that have the following total value to the City and the State in the amount of \$575,000:

1. Financial, technical and program support for a range of charities, to include but not be limited to, Four H, Boys and Girls Clubs, Wounded Warriors, Animal Humane Society, Special Olympics, Horses for Heroes,-FFA and Junior Rodeo events and organizations. (5 year value is \$15,000); and
2. Community outreach and education related to rural agricultural living and western heritage cultures. (5 year value is \$15,000); and
3. Implementation of a policy of comprehensive and effective educational and vocational resource programs for local public and private schools to include but not be limited responsible "green" agricultural practices. (5 year value is \$15,000); and
4. Money from fund raising that will assist in the success of afore mentioned charities and scholarship programs for agricultural competitions and higher education opportunities for local youth. (5 year value is \$15,000); and
5. Facilities and resources for local charities, schools and community groups. (5 year value is \$15,000); and
6. Links between local organizations and resources and national and international organizations and resources with an emphasis on rural agricultural and western culture traditions and preservation. (5 year value is \$15,000); and
7. Internship programs and professional development resources for not only at risk youth but also veterans, immigrant populations, and person with disabilities. (5 year value is \$15,000)

3. Disbursement of Funds: If the contingencies set forth in Paragraph 1. B. and C. above are met, the City Funds and/or the 2012 STB Funds will be disbursed by the City of Santa Fe to the Q/E upon receipt of Payment Application(s) from the Q/E. Payment Application(s) will have a cover letter from the Q/E requesting that City reimburse the Q/E for payments the Q/E made to the Contractor that performed the planning/feasibility study. The City will reimburse the Q/E within 30 (thirty) working days of receipt and acceptance by

the City of the payment applications. The City's grant does not promise to fully fund the Project and the Q/E agrees to contribute any additional necessary funds to fund the plan, design, and construction of the Project.

2. **PERFORMANCE REVIEW AND CRITERIA**

A. Completion of the Planning/Feasibility Study: Upon final disbursement of the City's Funds, and the 2012 STB funds, the City will provide the Q/E with an accounting of funding.

B. Annual Review. For five years, the Q/E will provide reports on biannually in the months of January and June of each year to the City's Governing Body, the Business and Quality of Life Committee and City Staff. City Staff shall review of these reports to ensure the Q/E's compliance with this Agreement. The bi-annual reports shall clearly indicate how the Q/E has met the revenue assumptions, job creation, taxes generated and other indices contained in the Economic Impact Report (see Attachment "A"). The review shall determine whether the project is in compliance with this Agreement and is substantially achieving the goals and objectives herein.

C. Termination for failure to meet Contributions and Obligations. In the event the Q/E does not substantially fulfill the Contributions and Obligations set forth in Paragraph 1. B. and C. the City may terminate this Agreement and recover all or a pro-rata portion of this investment of the Funds in accordance with the TERMINATION paragraph 5, herein.

3. **SECURITY FOR STATE'S, COUNTY'S AND THE CITY'S INVESTMENT**

Q/E shall, simultaneous to the execution of this Agreement, execute a performance bond or other indenture in favor of the City, in the amount of \$200,000, as security for the State, County and City funds.(Attached as Exhibit E hereto).

4. **TERM**

This Agreement shall remain in force for five (5) years from the start of the Amended Agreement or until conditions of the Agreement are performed in full or to the satisfaction of the City. In the event that the Q/E performs or exceeds the required PERFORMANCE REVIEW AND CRITERIA, Paragraph 2 herein, this Agreement may be terminated at an earlier date, in writing by the City.

5. **TERMINATION**

This Agreement may be terminated by the City upon written notice delivered to the Q/E at least 45 days prior to the intended date of termination in the event that the Q/E-is found to not be in substantial compliance with the terms of this Agreement and if so terminated, the City shall have the right to demand an immediate return of the Funds by the Q/E, execute upon its Mortgage and Lien and pursue any and all other available legal remedies.

6. **STATUS OF THE Q/E**

The Q/E, and its agents and employees are not employees of the City. The Q/E, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles or any other benefits afforded to employees of the City as a result of this Agreement.

7. **ASSIGNMENT**

The Q/E shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

8. **LIABILITY**

It is expressly understood and agreed by and between Q/E and the City that Q/E shall defend, indemnify and hold harmless the City for all losses, damages, claims or judgments on account of any suit, judgment, execution, claims, actions or demands whatsoever resulting from Q/E's actions or inactions as a result of this Agreement. Q/E shall maintain adequate insurance in at least the aggregate maximum amounts which the City could be liable consistent with the provisions of the New Mexico Tort Claims Act. It is the sole responsibility of the Q/E to be in compliance with the law.

9. **INSURANCE**

A. The Q/E, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City will be notified within 10 days of cancellation for any reason. The Q/E shall furnish the City with a copy of a "Certificate of Insurance" as a condition prior to performing services under this Agreement.

B. If applicable, the Q/E shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Q/E's employees throughout the term of this Agreement. Q/E shall provide the City with evidence of its compliance with such requirement.

C. The Q/E's Contractor that performs the feasibility study shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage of one million dollars (\$1,000,000) per occurrence. The Q/E's contractor that performs the feasibility study shall furnish the Q/E and the City with Proof of Insurance as a condition prior to performing services under this Agreement.

10. **NEW MEXICO TORT CLAIMS ACT**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

11. **THIRD PARTY BENEFICIARIES**

By entering into this Agreement the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Q/E. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

12. **RECORDS AND AUDITS**

The Q/E shall maintain detailed time records which indicate the date and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment; payments under this Agreement shall not foreclose the right of the City to recover excessive illegal payments.

13. **APPROPRIATIONS**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate immediately upon written notice being given by the City to the Q/E.

14. **RELEASE**

The Q/E, upon final fulfillment of this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this

Agreement. The Q/E agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Q/E has express written authority to do so, and then only within the strict limits of that authority.

15. **CONFIDENTIALITY**

Any confidential information provided to or developed by the Q/E in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Q/E without the prior written approval of the City.

16. **CONFLICT OF INTEREST**

The Q/E warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement.

17. **AMENDMENT**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

18. **SCOPE OF AGREEMENT**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, or understandings have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

19. **REPRESENTATIONS AND WARRANTIES**

A. The Q/E hereby warrants the Q/E is and will remain in compliance with the Americans with Disabilities Act, 29 CFR 1630.

20. **APPLICABLE LAW**

This Agreement shall be governed by the ordinances of the City of Santa Fe and the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF SANTA FE:

David Coss
David Coss, Mayor

ATTEST:

Yolanda Y. Vigil
Yolanda Y. Vigil, City Clerk *1-9-13*

APPROVED AS TO FORM:

Judith Amer for
Geno Zamora, City Attorney *1/10/13*

APPROVED:

Melville Morgan
Dr. Melville Morgan Director
Finance Department *2/26/13*

QUALIFYING ENTITY:

Rodeo Property, Inc.

By: David Copher
David Copher, President, Rodeo Property Inc

CRS #: 02188962007
City of Santa Fe Business Registration Number:
13-00010634

CITY OF SANTA FE
ECONOMIC DEVELOPMENT
PROJECT PARTICIPATION AGREEMENT

THIS PROJECT PARTICIPATION AGREEMENT (hereinafter referred to as "Agreement") is made and entered into this 14th day of December, 2011 by and between the City of Santa Fe, hereinafter referred to as the "City"; and Rodeo Property, Inc., hereinafter referred to as the "Qualifying Entity" (Q/E).

WHEREAS, the State of New Mexico has deemed it in the best interest of the citizens of New Mexico to enact the Local Economic Development Act (N.M. Stat. Ann. 5-10-1 et seq. (1978);

WHEREAS, the Local Economic Development Act explicitly permits municipalities to assist qualifying entities with economic development projects through the use of public resources;

WHEREAS, the City of Santa Fe has complied with the requirements of the Local Economic Development Act by adopting an economic development plan ordinance incorporating within that ordinance its community economic development plan (11-11 SFCC (1987)), its Community Economic Development Plan and its Economic Development Strategy for Implementation dated May 21, 2008;

WHEREAS, the City of Santa Fe has determined that it is in the interest of the welfare of the citizens of Santa Fe to enter into this Economic Development Project Participation Agreement for the purposes of effectuating its economic development plan.

NOW THEREFORE, in consideration of the premises, the following and other good and valuable consideration the receipt of which is hereby acknowledged the undersigned parties hereby agree as follows.

1. CONTRIBUTIONS AND OBLIGATIONS OF THE CITY AND THE Q/E.

A. Economic development goals of the project: The project addresses the following goals from the Community Economic Development Plan (CEDP):

(1) Implementing comprehensive economic development policies that address both local and regional objectives;

(2) Directing major economic development initiatives toward creating opportunities for local residents that result in the steady improvement in the standard of living;



(2) Disbursement of Funds: If the contingencies set forth in Paragraph 1. B. 1. above are met, the Funds will be disbursed by the City of Santa Fe to the Q/E upon receipt of Payment Application(s) from the Q/E. Payment application(s) will have a cover letter from the Q/E requesting that City grant Funds be paid toward the feasibility study. The City will disburse the Funds to the Q/E within 30 (thirty) working days of receipt and acceptance by the City of the payment applications. The City's grant does not promise to fully fund the feasibility study and the Q/E agrees to contribute any additional necessary funds as set forth in Paragraph 1. B.

(3) Contributions and Obligations of the Q/E and Specific Measurable Objectives upon which Performance Review will be based. Future funding from the City for the Project is contingent upon the results of the feasibility study, the Q/E's ability to secure private funding or State funding for the -construction of the indoor multipurpose facility.

(a) Financial Investment: The Q/E brings the following non-cash financial investment to the project.

(b) Direct and Indirect Jobs Creation: It is anticipated that after completion of the construction of the indoor multipurpose facility, the Q/E plans to employ 286 (direct), 114 (indirect), and 93 (induced) construction industry jobs over the course of construction, generating a \$16,170,250 in total estimated payroll. Once the Project is completed, it is anticipated to create 68 full time jobs and 70 per event part-time jobs; and by year five, it is estimated there will be 68 full time employees and 70 per event part time employees in the building. See Attachment "A" for Report of the Economic Impact of Rodeo De Santa Fe on Santa Fe, NM, prepared by Impact DataSource (the "Economic Impact Report").

(c) Expanded Tax Base: It is anticipated that after completion of the construction of the indoor multipurpose facility, the Project will make contributions to the City's tax base resulting from this project are enumerated in the Economic Impact Report attached hereto as Attachment "A". Annual tax revenues generated by this project for the City, including property tax, gross receipts tax and parking revenue are estimated to generate \$11,708,586 dollars annually.

(d) Other:

(i) Disaster Relief Facility: Q/E's indoor multipurpose facility will have the capacity to shelter approx. 3,000 people or approx. 500 stock animals in the case of a disaster or emergency situation for the City of Santa Fe and the County of Santa Fe as well as the entire northern region of the State of New Mexico. Currently, there is no indoor facility of this size in northern New Mexico that could serve as a disaster relief facility. The City and the Rodeo De Santa Fe will enter into a Professional Services Agreement, setting forth the procedures for the City's use of the indoor facility at the Rodeo De Santa Fe in the event of a disaster or emergency situation.

(ii) In Kind Contributions to the Community:

(3) Ensuring that the city's economic prosperity is shared equitably;

(4) Fostering the region's economic development while preserving its unique and diverse quality of life;

(5) Using the region's sustainable natural, financial, intellectual, technological and physical resources;

(6) Diversifying the economic base of the City to support a vibrant and sustainable mix of jobs and opportunities.

B. Contributions of the City and the Q/E: This Agreement only covers the \$100,000 set forth in Paragraph 1. B. (1). If the City secures additional public funding for the completion of the construction of the Project, the City will enter into a new Project Participation Agreement with new financial, job and other contributions and security provided by the Q/E for the additional public funding.

(1) Donation and Services of the City. Contingent upon preconditions set forth in (a), (b) and (c) of this Paragraph B. (1), the City of Santa Fe shall grant gross receipts tax bond funds to the Q/E in an amount, not to exceed \$100,000 (hereinafter referred to as the "Funds"). The Funds dispersal by the City are contingent upon the:

(a) issuance and sale of sufficient gross receipts tax ("GRT") bonds for the purpose of procuring, in accordance with the City Procurement Policy, as amended, and State law, a contractor's (the "Contractor") services in preparing and delivering to the City and the Q/E a feasibility study that shall be the basis for securing additional funding for the planning, designing and construction of an indoor multipurpose facility for the following purposes; an indoor facility for disaster relief; rodeo events, sports events; and entertainment events (hereinafter referred to as the "Project"); and

(b) Q/E securing sufficient matching funds, either private or State, to fully fund the Contractor's services and said contract; and

(c) City's total contribution towards paying the Contractor will match the Rodeo's contribution on a 1:1 basis.

The Q/E has provided for the past 20 years and for the next five years shall continue to provide the following in-kind contributions to the community that have the following value to the City:

- Financial, technical and program support for a range of charities, to include but not be limited to, Four H, Boys and Girls Clubs, Wounded Warriors, Animal Humane Society, Special Olympics, Horses for Heroes, FFA and Junior Rodeo events and organizations. (5 year value is \$15,000); and
- Community outreach and education related to rural agricultural living and western heritage cultures. (5 year value is \$15,000); and
- Implementation of a policy of comprehensive and effective educational and vocational resource programs for local public and private schools to include but not be limited responsible "green" agricultural practices. (5 year value is \$15,000); and
- Money from fund raising that will assist in the success of afore-mentioned charities and scholarship programs for agricultural competitions and higher education opportunities for local youth. (5 year value is \$15,000); and
- Facilities and resources for local charities, schools and community groups. (5 year value is \$15,000); and
- Links between local organizations and resources and national and international organizations and resources with an emphasis on rural agricultural and western culture traditions and preservation. (5 year value is \$15,000); and
- Internship programs and professional development resources for not only at risk youth but also veterans, immigrant populations, and person with disabilities. (5 year value is \$15,000)

2. PERFORMANCE REVIEW AND CRITERIA

A. At Completion of Construction: Upon final disbursement of the City's Funds, the City will provide the Q/E with an accounting of funding.

B. Annual Review. For five years, the Q/E will provide reports on biannually in the months of January and June of each year to the City's Governing Body, the Business and Quality of Life Committee and City Staff. City Staff shall review of these reports to ensure the Q/E's compliance with this Agreement. The bi-annual reports shall clearly indicate how the Q/E has met the revenue assumptions, job creation, taxes generated and other indices contained in the Economic Impact Report (see attachment "A"). The review shall determine whether the project is in compliance with this Agreement and is substantially achieving the goals and objectives herein.

C. Termination for failure to meet Contributions and Obligations In the event the Q/E does not substantially fulfill the Contributions and Obligations set forth in Paragraph 1. B. 2 and 3, the City may terminate this Agreement and recover all or a pro-rata portion of this investment of the Funds in accordance with the TERMINATION paragraph 5, herein.

3. **SECURITY FOR CITY'S INVESTMENT**

Q/E will simultaneous to the execution of this Agreement, execute the attached Letter of Credit (Attachment B hereto) in favor of the City in the amount of \$100,000.

4. **TERM**

This Agreement shall remain in force for five (5) years from the start of the Agreement or until conditions of the Agreement are performed in full or to the satisfaction of the City. In the event that the Q/E performs or exceeds the required PERFORMANCE REVIEW AND CRITERIA, Paragraph 2 herein, this Agreement may be terminated at an earlier date, in writing by the City.

5. **TERMINATION**

This Agreement may be terminated by the City upon written notice delivered to the Q/E at least 45 days prior to the intended date of termination in the event that the Q/E is found to not be in substantial compliance with the terms of this Agreement and if so terminated, the City shall have the right to demand an immediate return of the Funds by the Q/E, execute upon its Mortgage and Lien and pursue any and all other available legal remedies.

6. **STATUS OF THE Q/E**

The Q/E, and its agents and employees are not employees of the City. The Q/E, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles or any other benefits afforded to employees of the City as a result of this Agreement.

7. **ASSIGNMENT**

The Q/E shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

8. **LIABILITY**

It is expressly understood and agreed by and between Q/E and the City that Q/E shall defend, indemnify and hold harmless the City for all losses, damages, claims or judgments on

account of any suit, judgment, execution, claims, actions or demands whatsoever resulting from Q/E's actions or inactions as a result of this Agreement. Q/E shall maintain adequate insurance in at least the aggregate maximum amounts which the City could be liable consistent with the provisions of the New Mexico Tort Claims Act. It is the sole responsibility of the Q/E to be in compliance with the law.

9. **INSURANCE**

A. The Q/E, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City will be notified within 10 days of cancellation for any reason. The Q/E shall furnish the City with a copy of a "Certificate of Insurance" as a condition prior to performing services under this Agreement.

B. If applicable, the Q/E shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Q/E's employees throughout the term of this Agreement. Q/E shall provide the City with evidence of its compliance with such requirement.

C. The Q/E's Contractor that performs the feasibility study shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage of one million dollars (\$1,000,000) per occurrence. The Q/E's contractor that performs the feasibility study shall furnish the Q/E and the City with Proof of Insurance as a condition prior to performing services under this Agreement.

10. **NEW MEXICO TORT CLAIMS ACT**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

11. THIRD PARTY BENEFICIARIES

By entering into this Agreement the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Q/E. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

12. RECORDS AND AUDITS

The Q/E shall maintain detailed time records which indicate the date and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment; payments under this Agreement shall not foreclose the right of the City to recover excessive illegal payments.

13. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate immediately upon written notice being given by the City to the Q/E.

14. RELEASE

The Q/E, upon final fulfillment of this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Q/E agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Q/E has express written authority to do so, and then only within the strict limits of that authority.

15. CONFIDENTIALITY

Any confidential information provided to or developed by the Q/E in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Q/E without the prior written approval of the City.

16. CONFLICT OF INTEREST

The Q/E warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement.

17. AMENDMENT

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

18. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, or understandings have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

19. REPRESENTATIONS AND WARRANTIES

A. The Q/E hereby warrants the Q/E is and will remain in compliance with the Americans with Disabilities Act, 29 CFR 1630.

20. APPLICABLE LAW

This Agreement shall be governed by the ordinances of the City of Santa Fe and the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SIGNATURES BEGIN ON NEXT PAGE

CITY OF SANTA FE:

David Coss
David Coss, Mayor

ATTEST:

Yolanda Y. Vigil
Yolanda Y. Vigil, City Clerk
12-14-11 cclerk
APPROVED AS TO FORM:

Judith Amador
Geno Zamora, City Attorney 4/5/12

QUALIFYING ENTITY:
Rodeo Property, Inc.

By: [Signature]
David Copher, President, Rodeo Property Inc

CRS #: 02188962007
City of Santa Fe Business Registration Number:
12-00067298

APPROVED:

Melville Morgan
Dr. Melville Morgan
Director of Finance
and Administration 5/24/12

32214/0112900
Business Unit/Line Item



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

AMENDED – ITEM #1-2 AND ITEM #1-4

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 12/13/11 TIME 2:05 pm

SERVED BY _____

RECEIVED BY [Signature]

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: Reg. City Council Meeting – November 30, 2011.
9. PRESENTATIONS
 - a) Employee of the Month for December 2011 – Keith Wilson, MPO Senior Planner. (5 Minutes)
 - b) 2011 Boys Soccer City Champions Trophy Presentation – Capital High School. (5 minutes)
10. CONSENT CALENDAR
 - a) Request for Approval of Donation of One (1) Fire Department Vehicle (Type 1 Fire Engine) to the Penasco Volunteer Fire Department. (Robert Rodarte and Fire Chief Barbara Salas)
 - b) Request for Approval of Amendment No. 8 to Professional Services Agreement – Santa Fe Trail Project at Camino Alire to NM 599; Weston Solutions, Inc. (Formerly Resource Technology, Inc. or RTI). (Brian Drypolcher)
 - 1) Request for Approval of Budget Increase – Project Fund.





Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

- c) Request for Approval of Budget Increase from Railyard GRT Fund Into Santa Fe Railyard. (Bob Siqueiros)
- d) Request for Approval of Lease Agreement – Parking Area on Lot 33, Block 43 of N.L. Kings Official Map Located Within the 700 Block of Paseo De Peralta; Paseo Parkers, LLC. (Edward Vigil)
- e) Request for Approval of Procurement Under Cooperative Agreement – One (1) Backhoe and One (1) HD Loader for Wastewater Division; Adobe Truck and Equipment. (Bryan Romero)
 - 1) Request for Approval of Budget Increase – Wastewater Fund.
- f) Request for Approval of Amendment No. 1 to Professional Services Agreement – Reservoir Infrastructure Improvements - Phase I for Water Division; Santa Fe Engineering Consultants, LLC. (Robert Jorgensen)
- g) CONSIDERATION OF RESOLUTION NO. 2011-_____.
A Resolution Relating to a Request for Approval of First Quarter Budget Adjustments for Fiscal Year 2011/2012 Ending September 30, 2011. (Cal Probasco)
- h) CONSIDERATION OF RESOLUTION NO. 2011-_____. (Mayor Coss and Councilor Calvert)
A Resolution Adopting the City of Santa Fe Updated ADA Transition Plan and Self Evaluation. (Joseph Lujan)
- i) Request for Approval of Consideration to Fill Vacant Positions. (Robert Romero)
- j) Request for Approval to Publish Notice of Public Hearing on January 11, 2012:
 - 1) Bill No. 2011-46: An Ordinance Amending Section 14-8.14(E)(1) SFCC 1987 so that for a Period of Two Years, the Impact Fees for Residential Developments Shall be Reduced by 100%; and Making Such Other Necessary Changes. (Councilor Wurzbarger, Councilor Ortiz and Councilor Dominguez) (Matthew O'Reilly)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

- 2) **Bill No. 2011-47: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Refunding Revenue Bonds, Series 2012b in an Aggregate Principal Amount Not to Exceed \$16,500,000 for the Purpose of Defraying the Cost of Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Variable Rate Revenue Bonds, Series 1997b; Providing that the Bonds will be Payable and Collectible From the Net Revenues of the City's Wastewater System and Certain Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement in Connection with the Bonds; Providing for Redemption of the Series 1997b Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Dr. Melville Morgan)**

- 3) **Bill No. 2011-48: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012a in an Aggregate Principal Amount Not to Exceed \$40,000,000 for the Purpose of Defraying the Cost of (1) Public Projects Related to Public Utilities, Public Works, Parks and Recreation, and Community Services as Authorized By Law and the City's Home Rule Powers and (2) Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2004; Providing that the Bonds will be Payable and Collectible From the Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement and an Escrow Agreement; Providing for Redemption of the Series 2004 Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Dr. Melville Morgan)**



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

- 4) **Bill No. 2011-49: An Ordinance Amending Section 7-4.2 SFCC 1987 Regarding the Administration of the Residential Green Building Code; Repealing Exhibit A to Chapter VII SFCC 1987, Santa Fe Residential Green Building Code; and Adopting a New Exhibit A to Chapter VII SFCC 1987, Santa Fe Residential Green Building Code, to be Consistent with the National Green Building Standard. (Councilor Calvert) (Katherine Mortimer)**
- a) **A Resolution Repealing Resolution No. 2009-42, Resolution No. 2009-73 and Resolution 2010-63 that Adopted and Amended the Administrative Procedures for the Santa Fe Residential Green Building Code; and Adopting Updated Administrative Procedures for the Santa Fe Residential Green Building Code to be Consistent with the National Green Building Standard. (Councilor Calvert) (Katherine Mortimer)**
- 5) **Bill No. 2011-50: An Ordinance Amending Section 25-1.3 SFCC 1987 to Exempt State Educational Institutions from Being Required to Comply with Chapter 14 SFCC 1987 (Land Development Laws) when Applying for City Water and Making Other Such Changes as are Necessary (Councilor Romero, Mayor Coss, Councilor Trujillo, Councilor Calvert and Councilor Dominguez) (Matthew O'Reilly and Brian Snyder)**
- k) **CONSIDERATION OF RESOLUTION NO. 2011-_____. (Mayor Coss and Councilor Calvert)**
A Resolution Supporting the Efforts of the Community, Labor and Faith Organizations, the New Mexico Attorney General, the New Mexico Department of Workforce Solutions, and the United States Department of Labor to Eliminate the Practice of Wage Theft in New Mexico. (Postponed at November 30, 2011 City Council Meeting)
- l) **CONSIDERATION OF RESOLUTION NO. 2011-_____. (Mayor Coss)**
A Resolution Recognizing the Gift of a Bronze Statue From the Pueblo of Pojoaque and Artist George Rivera to the Petry Family in Honor of Sergeant First Class Leroy Arthur Petry, a Native Santa Fean and Medal of Honor Recipient; Accepting with Gratitude the Bronze Statue as a Donation from the Petry Family to the City; and Supporting the Placement of the Statue on the Southeast Lawn of City Hall, Along Lincoln Avenue. (Sabrina Pratt)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

11. **CONSIDERATION OF RESOLUTION NO. 2011-_____.** (Councilor Calvert)
A Resolution Supporting Federal Legislation to Enact the *Sensible Accounting to Value Energy Act*. (The "Save Act"). (Katherine Mortimer)
12. **CONSIDERATION OF RESOLUTION NO. 2011-_____.** (Councilor Romero, Councilor Dominguez, Councilor Wurzbarger and Councilor Calvert)
A Resolution Supporting the 2012 Farm Bill Priorities as a Means to Securing a Regional Food System that is Just and Accessible for All Residents of the City of Santa Fe. (Katherine Mortimer)
13. **Case #2011-125.** – Request for Approval of the Recommendation of the City Attorney Pursuant to Santa Fe City Code §14-3.17(D)(6) that the Governing Body Dismiss the Appeal of Norman Lagasse as Agent for Ida A. Rajotte from the October 6, 2011 Decision of the Summary Committee Approving a Lot Split for a Parcel of Land Located at the Corner of Camino Carlos Rey and the Arroyo de Los Chamisos. (Kelley Brennan)
14. **Case #2011- 126** – Request for Approval of the Recommendation of the City Attorney Pursuant to Santa Fe City Code §14-3.17(D)(6) that the Governing Body Dismiss the Appeal of Mark Graham from the October 26, 2011 Issuance of Building Permit #11-2071 for Construction of a Stucco Wall and Coyote Fence at 4555 Camino Placitas. (Kelley Brennan)
15. **Case #2011-64.** Ft. Marcy 14 Upgrade Project. Public Service Company of New Mexico (PNM), is Presenting an Accounting to the Governing Body Pursuant to Section 14-6.2(G)(7) SFCC 1987, for the Undergrounding of Approximately 11,700 Linear Feet of Electrical Lines Between Bishop's Lodge Road and Hyde Park Road. The Governing Body may (1) Direct the Applicant to Seek Approval of the New Mexico Public Regulation for an Additional Fee to be Paid by all City Customers to Cover the Cost of Undergrounding; or (2) Allocating City Funds to Cover the Cost or Partial Cost of Undergrounding; or (3) Authorizing the Applicant to Construct the Aboveground Electrical Lines. (Dan Esquibel and Marcos Martinez)
16. **MATTERS FROM THE CITY MANAGER**



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

17. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION

- a) Discussion of the Purchase, Acquisition or Disposal of Real Property by the City of Santa Fe, Office Space Lease Agreement, 500 Market Street, Suite 200 at the Railyard; with Railyard Company LLC, Pursuant to §10-15-1(H)(8), NMSA 1978, and Discussion of Threatened or Pending Litigation in Which the City of Santa Fe Is or May Become a Participant Involving Railyard Company, LLC in Accordance with §10-15-1(H)(7), NMSA 1978.
 - b) Pursuant to City of Santa Fe Resolution No. 2010-24, Discussion of Threatened or Pending Litigation in which the City of Santa Fe is or May Become a Participant, in Accordance with §10-15-1(H)(7), NMSA 1978.
18. Action Regarding the Purchase, Acquisition or Disposal of Real Property by the City of Santa Fe, Office Space Lease Agreement, 500 Market Street, Suite 200 at the Railyard; with Railyard Company LLC, and Regarding Threatened or Pending Litigation in Which the City of Santa Fe Is or May Become a Participant Involving Railyard Company, LLC. (Geno Zamora)
19. MATTERS FROM THE CITY CLERK
20. 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



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

H. Presentation of Proclamation – St. Elizabeth Shelter Day: (Deborah Tang)
(5 Minutes)

I. PUBLIC HEARINGS:

- 1) Request for Approval of the Rodeo de Santa Fe Indoor Arena Project Participation Agreement for a Feasibility Study. (Mayor Coss) (Fabian Trujillo)
- 2) **Case #2011-106. Appeal.** Sommer Karnes & Associates, LLP, Agent for Mark and Beth Jernigan, Appeals the August 23 and September 13, 2011 Decisions of the Historic Design Review Board in Case #H-11-079A Designating the Main House and the Guest House at 1041 Camino Cruz Blanca as Significant. (David Rasch and Kelley Brennan) (Postponed to January 11, 2012 City Council Meeting)
- 3) **CONSIDERATION OF BILL NO. 2011-25: ADOPTION OF ORDINANCE NO 2011-_____.** (Councilor Ortiz)
An Ordinance Amending Section 11-2.2 SFCC 1987 and Creating a New Section 11-2.6 SFCC 1987 Limiting General Fund Personnel Costs. (Dr. Melville Morgan) (Postponed at August 10, 2011 City Council Meeting) (Withdrawn by Sponsor)
- 4) Request from Mirador Gallery for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Alcohol at Mirador Gallery, 616 Canyon Road, which is Within 300 Feet of the Santa Fe Monthly Meeting of Friends Quaker Church, 630 Canyon Road and the Acequia Madre Elementary School, 700 Acequia Madre. The Request is for an Art Reception/Christmas Eve Party to be held on December 24, 2011 from 4:30 p.m. to 11:30 p.m.

J. ADJOURN

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been addressed, the meeting should be reconvened at 7:00 p.m., the following day and shall be adjourned not later than 12:00 a.m. Agenda items, not considered prior to 11:30 p.m., shall be considered when the meeting is reconvened or tabled for a subsequent meeting.

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 955-6520, five (5) days prior to meeting date.

H. PRESENTATION OF PROCLAMATION – ST. ELIZABETH SHELTER DAY. (DEBORAH TANG)

Mayor Coss read a proclamation into the record, declaring December 15, 2011, St. Elizabeth Shelter Day in Santa Fe. He thanked them for their 25 years of service, and for all they do, saying it has made a huge difference in Santa Fe.

Deborah Tang thanked the City for its support in making the 25 years happen.

I. PUBLIC HEARINGS

1) REQUEST FOR APPROVAL OF THE RODEO DE SANTA FE INDOOR ARENA PROJECT PARTICIPATION AGREEMENT FOR A FEASIBILITY STUDY (MAYOR COSS). (FABIAN TRUJILLO)

Fabian Trujillo presented information from his Memorandum of December 13, 2011, which is in the Committee packet.

Public Hearing

Speaking to the request

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Wurzbarger moved, seconded by Councilor Bushee, to approve this request with the amendment from the Business and Quality of Life Committee, which requires a 6 month and 12 month report, to ensure we are in the loop and know what is happening. She said a lot has been promised, especially by the consultants with respect to jobs, and they want this information sooner rather than later.

DISCUSSION: Mayor Coss thanked the members of the Rodeo Association, commenting he thinks it is good for the Rodeo to stay where it is because it is part of our history and culture, as well as a great draw to Santa Fe. He thanked them for all the work they've done.

Councilor Bushee thanked everyone for their work and wished them well in their endeavors with the State Legislature, and congratulated Dave and Sally on their marriage.

Councilor Dominguez said he would echo what the Mayor and Councilor Bushee have said. He thinks it's a wonderful opportunity to have a Rodeo in the middle of the City. He thanked them for keeping it a part of our City as well.

Mayor Coss thanked Fabian Chavez for shepherding everyone through this process.

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

For: Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Trujillo and Councilor Wurzburger.

Against: None.

- ~~2) **CASE #2011-106, APPEAL. SOMMER KARNES & ASSOCIATES, LLP, AGENT FOR MARK AND BETH JERNIGAN, APPEALS THE AUGUST 23 AND SEPTEMBER 13, 2011, DECISIONS OF THE HISTORIC DESIGN REVIEW BOARD IN CASE #H-11-079A, DESIGNATING THE MAIN HOUSE AND THE GUEST HOUSE AT 1041 CAMINO CRUZ BLANCA AS SIGNIFICANT. (DAVID RASCH AND KELLEY BRENNAN) Postponed to January 11, 2012 City Council Meeting.**~~

~~This item is postponed to the January 11, 2012 City Council meeting.~~

- ~~3) **CONSIDERATION OF BILL NO. 2011-25, ADOPTION OF ORDINANCE NO. 2011-____ (COUNCILOR ORTIZ). AN ORDINANCE AMENDING SECTION 11-2-2 SFCC 1987 AND CREATING A NEW SECTION 11-2-6 SFCC 1987, LIMITING GENERAL FUND PERSONNEL COSTS. (DR. MELVILLE MORGAN) (POSTPONED AT AUGUST 10, 2011 CITY COUNCIL MEETING) (Withdrawn by Sponsor)**~~

~~This item has been withdrawn by the sponsor.~~

- ~~4) **REQUEST FROM EL MIRADOR GALLERY FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF ALCOHOL AT MIRADOR GALLERY, 616 CANYON ROAD, WHICH IS WITHIN 300 FEET OF THE SANTA FE MONTHLY MEETING OF FRIENDS QUAKER CHURCH, 630 CANYON ROAD AND THE ACEQUIA MADRE ELEMENTARY SCHOOL, 700 ACEQUIA MADRE. THE REQUEST IS FOR AN ART RECEPTION/CHRISTMAS EVE PARTY TO BE HELD ON DECEMBER 24, 2011, FROM 4:30 P.M. TO 11:30 P.M.**~~

~~A copy of a Memorandum dated December 14, 2011, with attachments, to Mayor Coss & City Councilors, from Yolanda Y. Vigil, City Clerk, regarding this request, is incorporated herewith to these minutes as Exhibit "20."~~

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

This Memorandum of Understanding ("MOU") is made and entered into by and between the City of Santa Fe (the "City") and the County of Santa Fe ("County"). The date of this Agreement shall be the date when it is executed by the City and the County, whichever occurs last.

WITNESSETH:

WHEREAS, the New Mexico Local Economic Development Act, NMSA 1978, Section. 5-10-1 et seq. permits municipalities to assist qualifying entities with economic development projects through the use of public resources;

WHEREAS, the City has complied with the requirements of the Local Economic Development Act by adopting an economic development plan ordinance incorporating within that ordinance its community economic development plan, (11-11 SFCC (1987) Community Economic Development Plan and its Economic Development Strategy for Implementation, dated May 21, 2008;

WHEREAS, the City determined that it was in the interest of the welfare of the citizens of Santa Fe to enter into a Local Economic Development Act Project Participation Agreement (hereinafter "PPA") between the Rodeo Property, Inc, a New Mexico non-profit corporation, and the City for the purposes of effectuating the City's Economic Development Plan;

WHEREAS, on December 14, 2011 the City approved the Economic Development PPA between the City and Rodeo Property, Inc. whereby Rodeo Property, Inc., as a "Qualifying Entity" would receive \$100,000 in funding from the City for a project that would support the City's Economic Development Plan. Attached hereto are Exhibit A, the signed PPA dated 14, 2011 and the City's Meeting Agenda and Minutes as Exhibit B;

WHEREAS, pursuant to the PPA, the dispersal of \$100,000 by the City is contingent on: (1) the City's issuance and sale of sufficient gross receipts tax bonds for the purpose of procuring a contractor to complete a feasibility study that shall be the basis for securing additional funding for the planning, designing and construction of an indoor multipurpose facility, and (2) Rodeo Property, Inc. securing sufficient matching funds in the amount of \$100,000 to fully fund the feasibility study;

WHEREAS, the indoor multipurpose facility shall be designated for the following purposes: an indoor facility for disaster relief, rodeo events, sports events, and entertainment events (hereinafter referred to as the "Project");



WHEREAS, the City has issued gross receipt tax bonds sufficient to fund the feasibility study and Rodeo Property, Inc. has secured sufficient matching funds to fully fund the feasibility study;

WHEREAS, in the 2012 Legislative Session the State Legislature appropriated \$81,000 in severance tax bonds to the Rodeo Property, Inc. to plan, design, construct, equip and furnish an indoor multiuse area and regional disaster relief facility at the Rodeo de Santa Fe grounds in Santa Fe. The Local Government Division of the Department of Finance and Administration intends to grant to the Rodeo Property, Inc. \$81,000 for the Project which will serve to partially fulfill the match requirements of the PPA;

WHEREAS, Rodeo Property, Inc.'s match required under the PPA consist of the \$81,000 State Appropriation and through Santa Fe County Resolution 2012-78, \$19,000 in funds from the County which together provide a full match for the City's \$100,000 contribution toward the completion of the Project;

WHEREAS, the City's total contribution (\$100,000) towards paying the for the completion of a feasibility study will match Rodeo Property Inc. (\$81,000) and the County's contributions (\$19,000) on a 1:1 basis;

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Purpose

The purpose of this MOU to summarize the understanding of the City and the County for the transfer and expenditure of \$19,000 from the County for the purpose of serving as a partial match of City funds as set forth in the PPA. The goal of this match is to enhance the Rodeo de Santa Fe Local Economic Development Project that will improve the economy of the City and the County. The Project referred to herein is the completion of a feasibility study for the design, construct and completion of a multipurpose indoor facility at the Rodeo de Santa Fe grounds for use during disaster relief, rodeo events, sports events and entertainment events.

2. Scope of Understanding and Responsibilities of the Parties

The County shall:

A. Upon the approval of this MOA, the County shall issue a check in the amount of Nineteen Thousand Dollars (\$19,000) to the City for the purpose of funding a feasibility study to plan, design, construct, complete and equip the Project.

The City shall:

- A. In compliance with the PPA, execute a Grant Agreement with the Local Government Division of the Department of Finance and Administration for the \$81,000 State appropriation.**
- B. Receive \$19,000 from the County and designate the expenditure of such contribution toward the feasibility study to plan, design, construct, complete and equip the Project.**
- C. In compliance with the PPA, the City shall allocate a not-to-exceed amount of \$100,000 to contract for the completion of a feasibility study to plan, design, construct, complete and equip the Project at the Rodeo de Santa Fe grounds in Santa Fe County.**
- D. Upon completion of the Project, the City shall provide a written report to the County identifying and itemizing the City's expenditure of the County's matching funds. Such report shall include copies invoices and corresponding cancelled checks.**

3. Term

This MOU shall expire on June 30, 2013 unless otherwise extended by both the County and the City in writing in no less than 30 days prior to the expiration of this Agreement.

4. Termination

This MOU may be terminated by either of the parties hereto upon written notice delivered to the other party at least 30 days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

5. Liability

Neither party shall be liable for any claim, action demand, suit or judgment arising from the other party's performance under this MOU or the performance of the of the other parties' agents, officers, employees, representatives and subcontractors. Both parties shall only be liable for any claim, action, demand, suit or judgment arising from its own performance under this MOU or the performance of its own agents, officers, employees, representatives and subcontractors.

6. Status of City and County

The City and the County are separate legal entities. The City's agents and employees are not employees or agents of the County. The County's agents and employees are not employees of the City. No powers of the County, expressed or implied, shall be granted to the City on behalf of the County, excepting those set forth herein.

7. New Mexico Tort Claims Act

By entering into this MOU, neither party shall be responsible for liability incurred as a result of the party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, et seq. as amended. This paragraph is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. The City and its "public employees" as defined in the New Mexico Tort Claims Act, and the County and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

8. Third Party Beneficiaries

By entering into this MOU the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the County. No person shall claim any right, title or interest under this MOU or seek to enforce this MOU as a third party beneficiary of this MOU.

9. Amendment

This MOU shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

10. Notices

Any notices required to be given under this MOU shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

City of Santa Fe:

**City Manager
P. O. Box 909
Santa Fe, NM 87504-0909**

County:

**County Manager
County of Santa Fe
P.O. Box 276
102 Grant Avenue
Santa Fe, NM 87504-0276**

11. Confidentiality

Any confidential information provided to or developed by either party in the performance of this MOU shall be kept confidential and shall not be made available to any individual or organization by the other party without the prior written approval of the other party.

12. Conflict of Interest

Both parties warrant that they presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this MOU.

13. Assignment; Subcontracting

Neither party shall assign or transfer any interest in this MOU or assign any claims for money due or to become due under this MOU without the prior written approval of the other party.

14. Release

Both parties release each other, their officers and employees, from all liabilities, claims, and obligations whatsoever arising from or under this MOU. The parties agrees not to purport to bind each other to any obligation not assumed herein by the parties unless the parties have express written authority to do so, and then only within the strict limits of that authority.

15. Third Party Beneficiaries

By entering into this MOU the parties do not intend to create any right, title, or interest in or for the benefit of any person other than the City and the County. No person shall claim any right, title, or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

16. Records and Audit

The City shall maintain detailed time records that indicate the date, time, and nature of its expenditure of the County's \$19,000 contribution and the services rendered by its contractor. These records shall be subject to inspection by the County. The County shall have the right to audit the billing both before and after payment; payment under this Agreement shall not foreclose the right of the County to recover excessive illegal payments.

17. Applicable Law

This MOU shall be governed by the ordinances of the City of Santa Fe, the ordinances of Santa Fe County, and the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties set their hands.

CITY OF SANTA FE:

COUNTY OF SANTA FE:

David Coss, Mayor
City of Santa Fe


Katherine Miller, Manager
Santa Fe County

DATE: _____

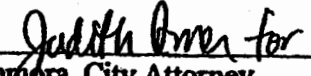
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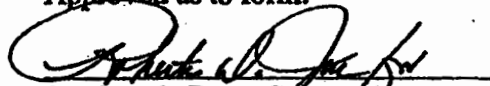
ATTEST:

Yolanda Y. Vigil, Clerk
City of Santa Fe

Approved as to form:

Approved as to form:

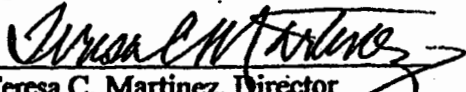

Geno Zamora, City Attorney
City of Santa Fe
11/8/12


Stephen C. Ross, County Attorney
Santa Fe County

Approved:

Dr. Melville Morgan
Finance Director
City of Santa Fe

Approved:



Teresa C. Martinez, Director
Finance Department, Santa Fe County

SANTA FE COUNTY
RESOLUTION NO. 2012 - 78

A RESOLUTION ADOPTING THE FINAL
2012-2013 (FY2013) BUDGET

WHEREAS, the Santa Fe County Board of County Commissioners (BCC), the governing body in and for the County of Santa Fe, State of New Mexico, held an official meeting on May 29, 2012, for the study and review of a 2012-2013 (FY 2013) budget, with recognition of sources and uses of funds of said budget;

WHEREAS, the meeting on May 29, 2012, was duly advertised in compliance with the State Open Meetings Act and the Federal Statement of Assurances pertaining to the requirements for revenue funds, and the budget was duly approved at the meeting; and

WHEREAS, the State of New Mexico, Department of Finance and Administration, Local Government Division granted interim approval of the proposed operating budget for the 2012-2013 year (FY 2013) with documentation and technical adjustments as required.

NOW, THEREFORE, BE IT RESOLVED, that the BCC hereby adopts the 2012-2013 (FY 2013) "Final Budget" and respectfully requests final approval from the Local Government Division of the Department of Finance and Administration.

APPROVED, ADOPTED AND PASSED this 26th day of June 2012.

BOARD OF COUNTY COMMISSIONERS

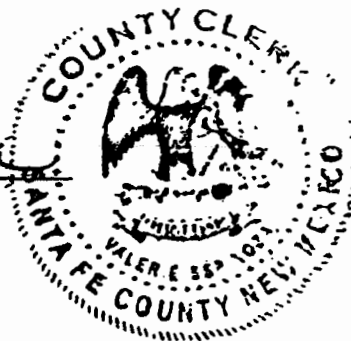


Liz Stefapics, Chairperson

ATTEST:



Valerie Espinoza, County Clerk



APPROVED AS TO FORM:



Stephen C. Ross, County Attorney



CITY OF SANTA FE)
E OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 2

Whereby Certify That This Instrument Was Filed for
Record On The 27TH Day Of June, 2012 at 09:46:42 AM
Has Duly Recorded as Instrument # 1673442
In The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

Valerie Espinoza



SANTA FE COUNTY

RESOLUTION NO. 103

RESOLUTION SUPPORTING THE PROPOSAL FOR
CONSTRUCTION OF A STATE HIGHWAY

[The main body of the document is almost entirely obscured by a heavy, dark, grainy texture, likely due to a scanning artifact or intentional redaction. Only faint outlines of text and horizontal lines are visible.]

APPROVED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS HEREBY
CERTIFIED TRUE AND CORRECT BY THE CLERK OF SAID COUNTY



THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

Virginia Vigilante

APPROVED

Valerie Espinoza

County Clerk, Santa Fe County, NM

APPROVED AS TO FORM

Charles C. Ross

County Attorney, Santa Fe County, NM

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 2

I Hereby Certify That This Instrument Was Filed for
Record On The 10TH Day Of August, 2011 at 10:42:06 AM
And Was Duly Recorded as Instrument # 1642283
Of The Records Of Santa Fe County

Deputy *Marcelle [Signature]*)
Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

CITY OF SANTA FE

ECONOMIC DEVELOPMENT

AMENDED PROJECT PARTICIPATION AGREEMENT

THIS AMENDED PROJECT PARTICIPATION AGREEMENT (hereinafter referred to as "Amended PPA") is made and entered into this 27th day of February, 2013 by and between the City of Santa Fe, hereinafter referred to as the "City"; and Rodeo Property, Inc., hereinafter referred to as the "Qualifying Entity" (Q/E). This Amended PPA supersedes and entirely replaces the Project Participation Agreement ("Original PPA") entered into between the City and the Q/E on December 14, 2011.

WHEREAS, the State of New Mexico has deemed it in the best interest of the citizens of New Mexico to enact the Local Economic Development Act (N.M. Stat. Ann. 5-10-1 et seq. (1978);

WHEREAS, the Local Economic Development Act explicitly permits municipalities to assist qualifying entities with economic development projects through the use of public resources;

WHEREAS, the City of Santa Fe has complied with the requirements of its Local Economic Development Act by adopting an economic development plan ordinance incorporating within that ordinance its community economic development plan (11-11 SFCC (1987)), its Community Economic Development Plan and its Economic Development Strategy for Implementation dated May 21, 2008;

WHEREAS, the City of Santa Fe has complied with the requirement of its Local Economic Development Ordinance, 11-11.1 through 11-11.16, by adopting the Original PPA and this Amended PPA which state the contributions and obligation of all parties in the economic development project. The Original PPA and Amended PPA clearly state the following: (1) The economic development goals of the project; (2) The contributions of the City and the Q/E; (3) The specific measurable objectives upon which the performance review will be based; (4) A schedule for project development and goal attainment; (5) The security being offered for the City's investment; (6) The procedures by which a project may be terminated and the City's investment recovered; (7) The time period for which the City shall retain an interest in the project; and (8) a "sunset" clause after which the City shall relinquish interest in and oversight of the project;

WHEREAS, on December 14, 2011 the City approved the Economic Development PPA between the City and Rodeo Property, Inc. whereby Rodeo Property, Inc., as a "Qualifying Entity" would receive \$100,000 in funding from the City for a project that would support the

City's Economic Development Plan. Attached hereto are the signed PPA dated December 14, 2011 as Exhibit A and the City's Meeting Agenda and Minutes as Exhibit B;

WHEREAS, the City's Governing Body adopted the Rodeo Project Economic Development Ordinance #2013-2, and approved this Amended Project Participation Agreement, at a public hearing held on January 9, 2013;

WHEREAS, pursuant to the PPA, the dispersal of \$100,000 by the City is contingent on: (1) the City's issuance and sale of sufficient gross receipts tax bonds for the purpose of procuring a contractor to complete a feasibility study that shall be the basis for securing additional funding for the planning, designing and construction of an indoor multipurpose facility, and (2) Rodeo Property, Inc. securing sufficient matching funds in the amount of \$100,000 to fully fund the feasibility study;

WHEREAS, the indoor multipurpose facility shall be designated for the following purposes: an indoor facility for disaster relief, rodeo events, sports events, and entertainment events (hereinafter referred to as the "Project");

WHEREAS, the City has issued gross receipt tax bonds sufficient to fund the planning portion of the Project (a planning/feasibility study) and the Q/E. has secured sufficient matching funds to fully fund the feasibility study as follows;

WHEREAS, in the 2012 Legislative Session the State Legislature appropriated \$81,000 in severance tax bonds to plan, design, construct, equip and furnish an indoor multiuse area and regional disaster relief facility at the Rodeo de Santa Fe grounds in Santa Fe. The Local Government Division of the Department of Finance and Administration intends to grant to the Rodeo Property, Inc. \$81,000 for the Project which, after execution of the Grant Agreement, will serve to partially fulfill the match requirements of the Original PPA;

WHEREAS, in order to totally fulfill the match requirement of the Original PPA, and pursuant to Santa Fe County Resolution 2012-78, the Rodeo de Santa, the City and Santa Fe County are in the process of negotiating a Memorandum of Understanding whereby the County would transfer \$19,000 to the City to serve as the remaining sufficient matching funds for the City's \$100,000 in GRT funds. After the MOU is executed and the Grant Agreement is executed, the Rodeo Property, Inc.'s match required under the PPA will consist of the \$81,000 State Appropriation and through, \$19,000 in funds from the County which together provide a full match for the City's \$100,000 contribution toward the completion of the Project. See, attached MOU as Exhibit C and Resolution 2012-78 as Exhibit D;

WHEREAS, the City's total contribution (\$100,000) towards paying the for the completion of a feasibility study will match Rodeo Property Inc. (\$81,000) and the County's contributions (\$19,000) on a 1:1 basis;

WHEREAS, the City of Santa Fe has determined that it is in the interest of the welfare of the citizens of Santa Fe to enter into this Economic Development Project Participation Agreement for the purposes of effectuating its Economic Development Plan.

NOW THEREFORE, in consideration of the premises, the following and other good and valuable consideration the receipt of which is hereby acknowledged the undersigned parties hereby agree as follows.

1. **CONTRIBUTIONS OF THE CITY, THE STATE AND THE Q/E.**

A. Economic development goals of the project: The project addresses the following goals from the Community Economic Development Plan (CEDP):

(1) *Implementing comprehensive economic development policies that address both local and regional objectives;*

(2) *Directing major economic development initiatives toward creating opportunities for local residents that result in the steady improvement in the standard of living;*

(3) *Ensuring that the city's economic prosperity is shared equitably;*

(4) *Fostering the region's economic development while preserving its unique and diverse quality of life;*

(5) *Using the region's sustainable natural, financial, intellectual, technological and physical resources;*

(6) *Diversifying the economic base of the City to support a vibrant and sustainable mix of jobs and opportunities.*

B. Contributions of the City: This Agreement governs the City's contribution of \$100,000 as set forth in Paragraph 1. B.(1). If the City secures additional public funding for the plan, design and/or construction of the Project, the City will enter into a new Project Participation Agreement with new financial, job and other contributions and security provided by the Q/E for the additional public funding.

(1) Donation of the City Funds. Contingent upon preconditions set forth in (a), (b) and (c) of this Paragraph B. (1), the City of Santa Fe shall grant gross receipts tax bond funds to the Q/E in an amount, not to exceed \$100,000 (hereinafter referred to as the "City Funds") to plan, design, construct, equip and furnish an indoor multiuse arena and

regional disaster relief facility at the Rodeo de Santa Fe in Santa Fe, New Mexico. The dispersal of the City Funds by the City are contingent upon the:

(a) issuance and sale of sufficient gross receipts tax (“GRT”) bonds for the purpose of procuring, in accordance with the City Procurement Policy, as amended, and State law, a contractor’s (the “Contractor”) services in preparing and delivering to the City and the Q/E a planning/feasibility study that shall be the basis for securing additional funding for the planning, designing and construction of an indoor multipurpose facility for the following purposes; an indoor facility for disaster relief; rodeo events, sports events; and entertainment events (hereinafter referred to as the “Project”); and

(b) Q/E securing sufficient matching funds, either private, County and/or State, to fully fund the Contractor’s services and said contract; and

(c) The City’s total contribution towards paying the Contractor is limited to a 1:1 match of the total amount that is granted to the City from other sources, either private, County and/or State. In other words, for every dollar the City receives from County, State and/or private sources for purposes of reimbursing the Q/E’s Contractor for performing the planning/feasibility study, the City will reimburse the Q/E one dollar as a match, not to exceed \$100,000 in City Funds.

C. Contributions of the State--2012 STB Capital Outlay appropriation 12-1483 – *Eighty-One thousand dollars (\$81,000) to plan, design, construct, equip and furnish an indoor multiuse arena and regional disaster relief facility at the rodeo de Santa Fe grounds in Santa Fe in Santa Fe county* (hereinafter referred to as the “2012 STB Funds”): This Agreement governs the State’s contribution of \$81,000 of 2012 STB Funds as set forth in Paragraph 1.C.(1). If the State appropriates future public funding for the Project and the State executes future grant agreements with the City granting that additional future public funding for the planning, designing and construction of the Project, the City will enter into a new Project Participation Agreement with new financial, job and other contributions and security provided by the Q/E for the additional public funding.

(1) Donation of the 2012 STB Funds. Contingent upon preconditions set forth in (a), and (b) of this Paragraph C.(1), the State and the City of Santa Fe shall grant an amount not to exceed \$81,000 of 2012 STB Funds to the Q/E to plan, design, construct, equip and furnish an indoor multiuse arena and regional disaster relief facility at the Rodeo de Santa

Fe in Santa Fe, New Mexico. The dispersal of the 2012 STB Funds by the State and the City are contingent upon the:

(a) execution of a grant agreement between the City and the Local Government Division of the Department of Finance and Administration to grant \$81,000 to the City to plan, design, construct, equip and furnish an indoor multiuse arena and regional disaster relief facility at the rodeo de Santa Fe grounds in Santa Fe in Santa Fe County; and

(b) delivering a request for reimbursement (“Payment Application”) to the City for the Q/E’s payment to the Contractor for a planning/feasibility study for the planning, designing and construction of an indoor multipurpose facility for the following purposes; an indoor facility for disaster relief; rodeo events, sports events; and entertainment events (hereinafter referred to as the “Project”); and

(2) Contributions and Obligations of the Q/E and Specific Measurable Objectives upon which the City shall base its Performance Review of the Q/E: The Q/E brings the following non-cash financial investment to the project.

(a) Direct and Indirect Jobs Creation: It is anticipated that after completion of the construction of the indoor multipurpose facility, the Q/E plans to employ 286 (direct), 114 (indirect), and 93 (induced) construction industry jobs over the course of construction, generating a \$16,170,250 in total estimated payroll. Once the Project is completed, it is anticipated to create 68 full time jobs and 70 per event part-time jobs; and by year five, it is estimated there will be 68 full time employees and 70 per event part time employees in the building. See Attachment “A” for Report of the Economic Impact of Rodeo De Santa Fe on Santa Fe, NM, prepared by Impact DataSource (the “Economic Impact Report”).

(b) Expanded Tax Base: It is anticipated that after completion of the construction of the indoor multipurpose facility, the Project will make contributions to the City’s tax base resulting from this project are enumerated in the Economic Impact Report attached hereto as Attachment “A”. Annual tax revenues generated by this project for the City, including property tax, gross receipts tax and parking revenue are estimated to generate \$11,708,586 dollars annually.

(c) Disaster Relief Facility: Q/E’s indoor multipurpose facility will have the capacity to shelter approx. 3,000 people or approx. 500 stock animals in the case of a disaster or emergency situation for the City of Santa Fe and the County of Santa Fe as well as the entire northern region of the State of New Mexico. Currently, there is no indoor facility of this size in northern New Mexico that could serve as a disaster relief facility. The City and the Rodeo De Santa Fe will enter into a Professional Services Agreement, setting forth the procedures for the

City's use of the indoor facility at the Rodeo De Santa Fe in the event of a disaster or emergency situation.

(d) In Kind Contributions of the Q/E to the Community: The Q/E has provided for the past 20 years and for the next five years shall continue to provide the following in-kind contributions to the community that have the following total value to the City and the State in the amount of \$575,000:

1. Financial, technical and program support for a range of charities, to include but not be limited to, Four H, Boys and Girls Clubs, Wounded Warriors, Animal Humane Society, Special Olympics, Horses for Heroes,-FFA and Junior Rodeo events and organizations. (5 year value is \$15,000); and
2. Community outreach and education related to rural agricultural living and western heritage cultures. (5 year value is \$15,000); and
3. Implementation of a policy of comprehensive and effective educational and vocational resource programs for local public and private schools to include but not be limited responsible "green" agricultural practices. (5 year value is \$15,000); and
4. Money from fund raising that will assist in the success of aforementioned charities and scholarship programs for agricultural competitions and higher education opportunities for local youth. (5 year value is \$15,000); and
5. Facilities and resources for local charities, schools and community groups. (5 year value is \$15,000); and
6. Links between local organizations and resources and national and international organizations and resources with an emphasis on rural agricultural and western culture traditions and preservation. (5 year value is \$15,000); and
7. Internship programs and professional development resources for not only at risk youth but also veterans, immigrant populations, and person with disabilities. (5 year value is \$15,000)

3. Disbursement of Funds: If the contingencies set forth in Paragraph 1. B. and C. above are met, the City Funds and/or the 2012 STB Funds will be disbursed by the City of Santa Fe to the Q/E upon receipt of Payment Application(s) from the Q/E. Payment Application(s) will have a cover letter from the Q/E requesting that City reimburse the Q/E for payments the Q/E made to the Contractor that performed the planning/feasibility study. The City will reimburse the Q/E within 30 (thirty) working days of receipt and acceptance by

the City of the payment applications. The City's grant does not promise to fully fund the Project and the Q/E agrees to contribute any additional necessary funds to fund the plan, design, and construction of the Project.

2. **PERFORMANCE REVIEW AND CRITERIA**

A. Completion of the Planning/Feasibility Study: Upon final disbursement of the City's Funds, and the 2012 STB funds, the City will provide the Q/E with an accounting of funding.

B. Annual Review. For five years, the Q/E will provide reports on biannually in the months of January and June of each year to the City's Governing Body, the Business and Quality of Life Committee and City Staff. City Staff shall review of these reports to ensure the Q/E's compliance with this Agreement. The bi-annual reports shall clearly indicate how the Q/E has met the revenue assumptions, job creation, taxes generated and other indices contained in the Economic Impact Report (see Attachment "A"). The review shall determine whether the project is in compliance with this Agreement and is substantially achieving the goals and objectives herein.

C. Termination for failure to meet Contributions and Obligations. In the event the Q/E does not substantially fulfill the Contributions and Obligations set forth in Paragraph 1. B. and C. the City may terminate this Agreement and recover all or a pro-rata portion of this investment of the Funds in accordance with the TERMINATION paragraph 5, herein.

3. **SECURITY FOR STATE'S, COUNTY'S AND THE CITY'S INVESTMENT**

Q/E shall, simultaneous to the execution of this Agreement, execute a performance bond or other indenture in favor of the City, in the amount of \$200,000, as security for the State, County and City funds.(Attached as Exhibit E hereto).

4. **TERM**

This Agreement shall remain in force for five (5) years from the start of the Amended Agreement or until conditions of the Agreement are performed in full or to the satisfaction of the City. In the event that the Q/E performs or exceeds the required PERFORMANCE REVIEW AND CRITERIA, Paragraph 2 herein, this Agreement may be terminated at an earlier date, in writing by the City.

5. **TERMINATION**

This Agreement may be terminated by the City upon written notice delivered to the Q/E at least 45 days prior to the intended date of termination in the event that the Q/E-is found to not be in substantial compliance with the terms of this Agreement and if so terminated, the City shall have the right to demand an immediate return of the Funds by the Q/E, execute upon its Mortgage and Lien and pursue any and all other available legal remedies.

6. **STATUS OF THE Q/E**

The Q/E, and its agents and employees are not employees of the City. The Q/E, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles or any other benefits afforded to employees of the City as a result of this Agreement.

7. **ASSIGNMENT**

The Q/E shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

8. **LIABILITY**

It is expressly understood and agreed by and between Q/E and the City that Q/E shall defend, indemnify and hold harmless the City for all losses, damages, claims or judgments on account of any suit, judgment, execution, claims, actions or demands whatsoever resulting from Q/E's actions or inactions as a result of this Agreement. Q/E shall maintain adequate insurance in at least the aggregate maximum amounts which the City could be liable consistent with the provisions of the New Mexico Tort Claims Act. It is the sole responsibility of the Q/E to be in compliance with the law.

9. **INSURANCE**

A. The Q/E, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City will be notified within 10 days of cancellation for any reason. The Q/E shall furnish the City with a copy of a "Certificate of Insurance" as a condition prior to performing services under this Agreement.

B. If applicable, the Q/E shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Q/E's employees throughout the term of this Agreement. Q/E shall provide the City with evidence of its compliance with such requirement.

C. The Q/E's Contractor that performs the feasibility study shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage of one million dollars (\$1,000,000) per occurrence. The Q/E's contractor that performs the feasibility study shall furnish the Q/E and the City with Proof of Insurance as a condition prior to performing services under this Agreement.

10. **NEW MEXICO TORT CLAIMS ACT**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

11. **THIRD PARTY BENEFICIARIES**

By entering into this Agreement the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Q/E. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

12. **RECORDS AND AUDITS**

The Q/E shall maintain detailed time records which indicate the date and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment; payments under this Agreement shall not foreclose the right of the City to recover excessive illegal payments.

13. **APPROPRIATIONS**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate immediately upon written notice being given by the City to the Q/E.

14. **RELEASE**

The Q/E, upon final fulfillment of this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this

Agreement. The Q/E agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Q/E has express written authority to do so, and then only within the strict limits of that authority.

15. **CONFIDENTIALITY**

Any confidential information provided to or developed by the Q/E in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Q/E without the prior written approval of the City.

16. **CONFLICT OF INTEREST**

The Q/E warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement.

17. **AMENDMENT**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

18. **SCOPE OF AGREEMENT**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, or understandings have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

19. **REPRESENTATIONS AND WARRANTIES**

A. The Q/E hereby warrants the Q/E is and will remain in compliance with the Americans with Disabilities Act, 29 CFR 1630.

20. **APPLICABLE LAW**

This Agreement shall be governed by the ordinances of the City of Santa Fe and the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF SANTA FE:

David Coss
David Coss, Mayor

ATTEST:

Yolanda Y. Vigil
Yolanda Y. Vigil, City Clerk *CCmtg 1-9-13*

APPROVED AS TO FORM:

Judith Amer for
Geno Zamora, City Attorney *1/10/13*

APPROVED:

Melville Morgan
Dr. Melville Morgan Director
Finance Department *2/26/13*

QUALIFYING ENTITY:

Rodeo Property, Inc.

By: David Copher
David Copher, President, Rodeo Property Inc

CRS #: 02188962007
City of Santa Fe Business Registration Number:
13-00010634

CITY OF SANTA FE
ECONOMIC DEVELOPMENT
PROJECT PARTICIPATION AGREEMENT

THIS PROJECT PARTICIPATION AGREEMENT (hereinafter referred to as "Agreement") is made and entered into this 14th day of December, 2011 by and between the City of Santa Fe, hereinafter referred to as the "City"; and Rodeo Property, Inc., hereinafter referred to as the "Qualifying Entity" (Q/E).

WHEREAS, the State of New Mexico has deemed it in the best interest of the citizens of New Mexico to enact the Local Economic Development Act (N.M. Stat. Ann. 5-10-1 et seq. (1978));

WHEREAS, the Local Economic Development Act explicitly permits municipalities to assist qualifying entities with economic development projects through the use of public resources;

WHEREAS, the City of Santa Fe has complied with the requirements of the Local Economic Development Act by adopting an economic development plan ordinance incorporating within that ordinance its community economic development plan (11-11 SFCC (1987)), its Community Economic Development Plan and its Economic Development Strategy for Implementation dated May 21, 2008;

WHEREAS, the City of Santa Fe has determined that it is in the interest of the welfare of the citizens of Santa Fe to enter into this Economic Development Project Participation Agreement for the purposes of effectuating its economic development plan.

NOW THEREFORE, in consideration of the premises, the following and other good and valuable consideration the receipt of which is hereby acknowledged the undersigned parties hereby agree as follows.

1. CONTRIBUTIONS AND OBLIGATIONS OF THE CITY AND THE Q/E.

A. Economic development goals of the project: The project addresses the following goals from the Community Economic Development Plan (CEDP):

(1) *Implementing comprehensive economic development policies that address both local and regional objectives;*

(2) *Directing major economic development initiatives toward creating opportunities for local residents that result in the steady improvement in the standard of living;*



(2) Disbursement of Funds: If the contingencies set forth in Paragraph 1. B. 1. above are met, the Funds will be disbursed by the City of Santa Fe to the Q/E upon receipt of Payment Application(s) from the Q/E. Payment application(s) will have a cover letter from the Q/E requesting that City grant Funds be paid toward the feasibility study. The City will disburse the Funds to the Q/E within 30 (thirty) working days of receipt and acceptance by the City of the payment applications. The City's grant does not promise to fully fund the feasibility study and the Q/E agrees to contribute any additional necessary funds as set forth in Paragraph 1. B.

(3) Contributions and Obligations of the Q/E and Specific Measurable Objectives upon which Performance Review will be based - Future funding from the City for the Project is contingent upon the results of the feasibility study, the Q/E's ability to secure private funding or State funding for the -construction of the indoor multipurpose facility.

(a) Financial Investment: The Q/E brings the following non-cash financial investment to the project.

(b) Direct and Indirect Jobs Creation: It is anticipated that after completion of the construction of the indoor multipurpose facility, the Q/E plans to employ 286 (direct), 114 (indirect), and 93 (induced) construction industry jobs over the course of construction, generating a \$16,170,250 in total estimated payroll. Once the Project is completed, it is anticipated to create 68 full time jobs and 70 per event part-time jobs; and by year five, it is estimated there will be 68 full time employees and 70 per event part time employees in the building. See Attachment "A" for Report of the Economic Impact of Rodeo De Santa Fe on Santa Fe, NM, prepared by Impact DataSource (the "Economic Impact Report").

(c) Expanded Tax Base: It is anticipated that after completion of the construction of the indoor multipurpose facility, the Project will make contributions to the City's tax base resulting from this project are enumerated in the Economic Impact Report attached hereto as Attachment "A". Annual tax revenues generated by this project for the City, including property tax, gross receipts tax and parking revenue are estimated to generate \$11,708,586 dollars annually.

(d) Other:

(i) Disaster Relief Facility: Q/E's indoor multipurpose facility will have the capacity to shelter approx. 3,000 people or approx. 500 stock animals in the case of a disaster or emergency situation for the City of Santa Fe and the County of Santa Fe as well as the entire northern region of the State of New Mexico. Currently, there is no indoor facility of this size in northern New Mexico that could serve as a disaster relief facility. The City and the Rodeo De Santa Fe will enter into a Professional Services Agreement, setting forth the procedures for the City's use of the indoor facility at the Rodeo De Santa Fe in the event of a disaster or emergency situation.

(ii) In Kind Contributions to the Community:

(3) Ensuring that the city's economic prosperity is shared equitably;

(4) Fostering the region's economic development while preserving its unique and diverse quality of life;

(5) Using the region's sustainable natural, financial, intellectual, technological and physical resources;

(6) Diversifying the economic base of the City to support a vibrant and sustainable mix of jobs and opportunities.

B. Contributions of the City and the Q/E: This Agreement only covers the \$100,000 set forth in Paragraph 1. B. (1). If the City secures additional public funding for the completion of the construction of the Project, the City will enter into a new Project Participation Agreement with new financial, job and other contributions and security provided by the Q/E for the additional public funding.

(1) Donation and Services of the City. Contingent upon preconditions set forth in (a), (b) and (c) of this Paragraph B. (1), the City of Santa Fe shall grant gross receipts tax bond funds to the Q/E in an amount, not to exceed \$100,000 (hereinafter referred to as the "Funds"). The Funds dispersal by the City are contingent upon the:

(a) issuance and sale of sufficient gross receipts tax ("GRT") bonds for the purpose of procuring, in accordance with the City Procurement Policy, as amended, and State law, a contractor's (the "Contractor") services in preparing and delivering to the City and the Q/E a feasibility study that shall be the basis for securing additional funding for the planning, designing and construction of an indoor multipurpose facility for the following purposes; an indoor facility for disaster relief; rodeo events, sports events; and entertainment events (hereinafter referred to as the "Project"); and

(b) Q/E securing sufficient matching funds, either private or State, to fully fund the Contractor's services and said contract; and

(c) City's total contribution towards paying the Contractor will match the Rodeo's contribution on a 1:1 basis.

The Q/E has provided for the past 20 years and for the next five years shall continue to provide the following in-kind contributions to the community that have the following value to the City:

- Financial, technical and program support for a range of charities, to include but not be limited to, Four H, Boys and Girls Clubs, Wounded Warriors, Animal Humane Society, Special Olympics, Horses for Heroes, FFA and Junior Rodeo events and organizations. (5 year value is \$15,000); and
- Community outreach and education related to rural agricultural living and western heritage cultures. (5 year value is \$15,000); and
- Implementation of a policy of comprehensive and effective educational and vocational resource programs for local public and private schools to include but not be limited responsible "green" agricultural practices. (5 year value is \$15,000); and
- Money from fund raising that will assist in the success of afore-mentioned charities and scholarship programs for agricultural competitions and higher education opportunities for local youth. (5 year value is \$15,000); and
- Facilities and resources for local charities, schools and community groups. (5 year value is \$15,000); and
- Links between local organizations and resources and national and international organizations and resources with an emphasis on rural agricultural and western culture traditions and preservation. (5 year value is \$15,000); and
- Internship programs and professional development resources for not only at risk youth but also veterans, immigrant populations, and person with disabilities. (5 year value is \$15,000)

2. PERFORMANCE REVIEW AND CRITERIA

A. At Completion of Construction: Upon final disbursement of the City's Funds, the City will provide the Q/E with an accounting of funding.

B. Annual Review. For five years, the Q/E will provide reports on biannually in the months of January and June of each year to the City's Governing Body, the Business and Quality of Life Committee and City Staff. City Staff shall review of these reports to ensure the Q/E's compliance with this Agreement. The bi-annual reports shall clearly indicate how the Q/E has met the revenue assumptions, job creation, taxes generated and other indices contained in the Economic Impact Report (see attachment "A"). The review shall determine whether the project is in compliance with this Agreement and is substantially achieving the goals and objectives herein.

C. Termination for failure to meet Contributions and Obligations In the event the Q/E does not substantially fulfill the Contributions and Obligations set forth in Paragraph 1. B. 2 and 3, the City may terminate this Agreement and recover all or a pro-rata portion of this investment of the Funds in accordance with the TERMINATION paragraph 5, herein.

3. SECURITY FOR CITY'S INVESTMENT

Q/E will simultaneous to the execution of this Agreement, execute the attached Letter of Credit (Attachment B hereto) in favor of the City in the amount of \$100,000.

4. TERM

This Agreement shall remain in force for five (5) years from the start of the Agreement or until conditions of the Agreement are performed in full or to the satisfaction of the City. In the event that the Q/E performs or exceeds the required PERFORMANCE REVIEW AND CRITERIA, Paragraph 2 herein, this Agreement may be terminated at an earlier date, in writing by the City.

5. TERMINATION

This Agreement may be terminated by the City upon written notice delivered to the Q/E at least 45 days prior to the intended date of termination in the event that the Q/E is found to not be in substantial compliance with the terms of this Agreement and if so terminated, the City shall have the right to demand an immediate return of the Funds by the Q/E, execute upon its Mortgage and Lien and pursue any and all other available legal remedies.

6. STATUS OF THE Q/E

The Q/E, and its agents and employees are not employees of the City. The Q/E, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles or any other benefits afforded to employees of the City as a result of this Agreement.

7. ASSIGNMENT

The Q/E shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

8. LIABILITY

It is expressly understood and agreed by and between Q/E and the City that Q/E shall defend, indemnify and hold harmless the City for all losses, damages, claims or judgments on

account of any suit, judgment, execution, claims, actions or demands whatsoever resulting from Q/E's actions or inactions as a result of this Agreement. Q/E shall maintain adequate insurance in at least the aggregate maximum amounts which the City could be liable consistent with the provisions of the New Mexico Tort Claims Act. It is the sole responsibility of the Q/E to be in compliance with the law.

9. INSURANCE

A. The Q/E, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City will be notified within 10 days of cancellation for any reason. The Q/E shall furnish the City with a copy of a "Certificate of Insurance" as a condition prior to performing services under this Agreement.

B. If applicable, the Q/E shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Q/E's employees throughout the term of this Agreement. Q/E shall provide the City with evidence of its compliance with such requirement.

C. The Q/E's Contractor that performs the feasibility study shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage of one million dollars (\$1,000,000) per occurrence. The Q/E's contractor that performs the feasibility study shall furnish the Q/E and the City with Proof of Insurance as a condition prior to performing services under this Agreement.

10. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

11. THIRD PARTY BENEFICIARIES

By entering into this Agreement the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Q/E. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

12. RECORDS AND AUDITS

The Q/E shall maintain detailed time records which indicate the date and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment; payments under this Agreement shall not foreclose the right of the City to recover excessive illegal payments.

13. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate immediately upon written notice being given by the City to the Q/E.

14. RELEASE

The Q/E, upon final fulfillment of this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Q/E agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Q/E has express written authority to do so, and then only within the strict limits of that authority.

15. CONFIDENTIALITY

Any confidential information provided to or developed by the Q/E in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Q/E without the prior written approval of the City.

16. CONFLICT OF INTEREST

The Q/E warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement.

17. **AMENDMENT**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

18. **SCOPE OF AGREEMENT**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, or understandings have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

19. **REPRESENTATIONS AND WARRANTIES**

A. The Q/E hereby warrants the Q/E is and will remain in compliance with the Americans with Disabilities Act, 29 CFR 1630.

20. **APPLICABLE LAW**

This Agreement shall be governed by the ordinances of the City of Santa Fe and the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SIGNATURES BEGIN ON NEXT PAGE

CITY OF SANTA FE:

David Coss
David Coss, Mayor

ATTEST:

Yolanda Y. Vigil
Yolanda Y. Vigil, City Clerk
12-14-11 cc/cltg.
APPROVED AS TO FORM:

Judith Amador
Geno Zamora, City Attorney 4/5/12

QUALIFYING ENTITY:
Rodeo Property, Inc.

By: [Signature]
David Copher, President, Rodeo Property Inc

CRS #: 02188962007
City of Santa Fe Business Registration Number:
12-00067298

APPROVED:

Melville Morgan
Dr. Melville Morgan
Director of Finance
and Administration 5/24/12

32214/0112900
Business Unit/Line Item



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

AMENDED – ITEM #1-2 AND ITEM #1-4

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 12/13/11 TIME 2:05 pm

SERVED BY _____

RECEIVED BY [Signature]

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: Reg. City Council Meeting – November 30, 2011.
9. PRESENTATIONS
 - a) Employee of the Month for December 2011 – Keith Wilson, MPO Senior Planner. (5 Minutes)
 - b) 2011 Boys Soccer City Champions Trophy Presentation – Capital High School. (5 minutes)
10. CONSENT CALENDAR
 - a) Request for Approval of Donation of One (1) Fire Department Vehicle (Type 1 Fire Engine) to the Penasco Volunteer Fire Department. (Robert Rodarte and Fire Chief Barbara Salas)
 - b) Request for Approval of Amendment No. 8 to Professional Services Agreement – Santa Fe Trail Project at Camino Alire to NM 599; Weston Solutions, Inc. (Formerly Resource Technology, Inc. or RTI). (Brian Drypolcher)
 - 1) Request for Approval of Budget Increase – Project Fund.





Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

- c) Request for Approval of Budget Increase from Railyard GRT Fund Into Santa Fe Railyard. (Bob Siqueiros)
- d) Request for Approval of Lease Agreement – Parking Area on Lot 33, Block 43 of N.L. Kings Official Map Located Within the 700 Block of Paseo De Peralta; Paseo Parkers, LLC. (Edward Vigil)
- e) Request for Approval of Procurement Under Cooperative Agreement – One (1) Backhoe and One (1) HD Loader for Wastewater Division; Adobe Truck and Equipment. (Bryan Romero)
 - 1) Request for Approval of Budget Increase – Wastewater Fund.
- f) Request for Approval of Amendment No. 1 to Professional Services Agreement – Reservoir Infrastructure Improvements - Phase I for Water Division; Santa Fe Engineering Consultants, LLC. (Robert Jorgensen)
- g) CONSIDERATION OF RESOLUTION NO. 2011-_____.
A Resolution Relating to a Request for Approval of First Quarter Budget Adjustments for Fiscal Year 2011/2012 Ending September 30, 2011. (Cal Probasco)
- h) CONSIDERATION OF RESOLUTION NO. 2011-_____. (Mayor Coss and Councilor Calvert)
A Resolution Adopting the City of Santa Fe Updated ADA Transition Plan and Self Evaluation. (Joseph Lujan)
- i) Request for Approval of Consideration to Fill Vacant Positions. (Robert Romero)
- j) Request for Approval to Publish Notice of Public Hearing on January 11, 2012:
 - 1) Bill No. 2011-46: An Ordinance Amending Section 14-8.14(E)(1) SFCC 1987 so that for a Period of Two Years, the Impact Fees for Residential Developments Shall be Reduced by 100%; and Making Such Other Necessary Changes. (Councilor Wurzbarger, Councilor Ortiz and Councilor Dominguez) (Matthew O'Reilly)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

- 2) **Bill No. 2011-47: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Refunding Revenue Bonds, Series 2012b in an Aggregate Principal Amount Not to Exceed \$16,500,000 for the Purpose of Defraying the Cost of Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Variable Rate Revenue Bonds, Series 1997b; Providing that the Bonds will be Payable and Collectible From the Net Revenues of the City's Wastewater System and Certain Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement in Connection with the Bonds; Providing for Redemption of the Series 1997b Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Dr. Melville Morgan)**

- 3) **Bill No. 2011-48: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012a in an Aggregate Principal Amount Not to Exceed \$40,000,000 for the Purpose of Defraying the Cost of (1) Public Projects Related to Public Utilities, Public Works, Parks and Recreation, and Community Services as Authorized By Law and the City's Home Rule Powers and (2) Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2004; Providing that the Bonds will be Payable and Collectible From the Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement and an Escrow Agreement; Providing for Redemption of the Series 2004 Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Dr. Melville Morgan)**



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

- 4) **Bill No. 2011-49: An Ordinance Amending Section 7-4.2 SFCC 1987 Regarding the Administration of the Residential Green Building Code; Repealing Exhibit A to Chapter VII SFCC 1987, Santa Fe Residential Green Building Code; and Adopting a New Exhibit A to Chapter VII SFCC 1987, Santa Fe Residential Green Building Code, to be Consistent with the National Green Building Standard. (Councilor Calvert) (Katherine Mortimer)**
- a) **A Resolution Repealing Resolution No. 2009-42, Resolution No. 2009-73 and Resolution 2010-63 that Adopted and Amended the Administrative Procedures for the Santa Fe Residential Green Building Code; and Adopting Updated Administrative Procedures for the Santa Fe Residential Green Building Code to be Consistent with the National Green Building Standard. (Councilor Calvert) (Katherine Mortimer)**
- 5) **Bill No. 2011-50: An Ordinance Amending Section 25-1.3 SFCC 1987 to Exempt State Educational Institutions from Being Required to Comply with Chapter 14 SFCC 1987 (Land Development Laws) when Applying for City Water and Making Other Such Changes as are Necessary (Councilor Romero, Mayor Coss, Councilor Trujillo, Councilor Calvert and Councilor Dominguez) (Matthew O'Reilly and Brian Snyder)**
- k) **CONSIDERATION OF RESOLUTION NO. 2011-_____. (Mayor Coss and Councilor Calvert)**
A Resolution Supporting the Efforts of the Community, Labor and Faith Organizations, the New Mexico Attorney General, the New Mexico Department of Workforce Solutions, and the United States Department of Labor to Eliminate the Practice of Wage Theft in New Mexico. (Postponed at November 30, 2011 City Council Meeting)
- l) **CONSIDERATION OF RESOLUTION NO. 2011-_____. (Mayor Coss)**
A Resolution Recognizing the Gift of a Bronze Statue From the Pueblo of Pojoaque and Artist George Rivera to the Petry Family in Honor of Sergeant First Class Leroy Arthur Petry, a Native Santa Fean and Medal of Honor Recipient; Accepting with Gratitude the Bronze Statue as a Donation from the Petry Family to the City; and Supporting the Placement of the Statue on the Southeast Lawn of City Hall, Along Lincoln Avenue. (Sabrina Pratt)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

11. **CONSIDERATION OF RESOLUTION NO. 2011-_____.** (Councilor Calvert)
A Resolution Supporting Federal Legislation to Enact the *Sensible Accounting to Value Energy Act*. (The "Save Act"). (Katherine Mortimer)
12. **CONSIDERATION OF RESOLUTION NO. 2011-_____.** (Councilor Romero, Councilor Dominguez, Councilor Wurzbarger and Councilor Calvert)
A Resolution Supporting the 2012 Farm Bill Priorities as a Means to Securing a Regional Food System that is Just and Accessible for All Residents of the City of Santa Fe. (Katherine Mortimer)
13. **Case #2011-125.** – Request for Approval of the Recommendation of the City Attorney Pursuant to Santa Fe City Code §14-3.17(D)(6) that the Governing Body Dismiss the Appeal of Norman Lagasse as Agent for Ida A. Rajotte from the October 6, 2011 Decision of the Summary Committee Approving a Lot Split for a Parcel of Land Located at the Corner of Camino Carlos Rey and the Arroyo de Los Chamisos. (Kelley Brennan)
14. **Case #2011- 126** – Request for Approval of the Recommendation of the City Attorney Pursuant to Santa Fe City Code §14-3.17(D)(6) that the Governing Body Dismiss the Appeal of Mark Graham from the October 26, 2011 Issuance of Building Permit #11-2071 for Construction of a Stucco Wall and Coyote Fence at 4555 Camino Placitas. (Kelley Brennan)
15. **Case #2011-64.** Ft. Marcy 14 Upgrade Project. Public Service Company of New Mexico (PNM), is Presenting an Accounting to the Governing Body Pursuant to Section 14-6.2(G)(7) SFCC 1987, for the Undergrounding of Approximately 11,700 Linear Feet of Electrical Lines Between Bishop's Lodge Road and Hyde Park Road. The Governing Body may (1) Direct the Applicant to Seek Approval of the New Mexico Public Regulation for an Additional Fee to be Paid by all City Customers to Cover the Cost of Undergrounding; or (2) Allocating City Funds to Cover the Cost or Partial Cost of Undergrounding; or (3) Authorizing the Applicant to Construct the Aboveground Electrical Lines. (Dan Esquibel and Marcos Martinez)
16. **MATTERS FROM THE CITY MANAGER**



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

17. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION

- a) Discussion of the Purchase, Acquisition or Disposal of Real Property by the City of Santa Fe, Office Space Lease Agreement, 500 Market Street, Suite 200 at the Rallyard; with Rallyard Company LLC, Pursuant to §10-15-1(H)(8), NMSA 1978, and Discussion of Threatened or Pending Litigation in Which the City of Santa Fe Is or May Become a Participant Involving Rallyard Company, LLC in Accordance with §10-15-1(H)(7), NMSA 1978.
- b) Pursuant to City of Santa Fe Resolution No. 2010-24, Discussion of Threatened or Pending Litigation in which the City of Santa Fe is or May Become a Participant, in Accordance with §10-15-1(H)(7), NMSA 1978.

- 18. Action Regarding the Purchase, Acquisition or Disposal of Real Property by the City of Santa Fe, Office Space Lease Agreement, 500 Market Street, Suite 200 at the Rallyard; with Rallyard Company LLC, and Regarding Threatened or Pending Litigation in Which the City of Santa Fe Is or May Become a Participant Involving Rallyard Company, LLC. (Geno Zamora)

19. MATTERS FROM THE CITY CLERK

20. 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



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
DECEMBER 14, 2011
CITY COUNCIL CHAMBERS

H. Presentation of Proclamation – St. Elizabeth Shelter Day: (Deborah Tang)
(5 Minutes)

I. PUBLIC HEARINGS:

- 1) Request for Approval of the Rodeo de Santa Fe Indoor Arena Project Participation Agreement for a Feasibility Study. (Mayor Coss) (Fabian Trujillo)
- 2) Case #2011-106. Appeal. Sommer Kames & Associates, LLP, Agent for Mark and Beth Jernigan, Appeals the August 23 and September 13, 2011 Decisions of the Historic Design Review Board in Case #H-11-079A Designating the Main House and the Guest House at 1041 Camino Cruz Blanca as Significant. (David Rasch and Kelley Brennan) (Postponed to January 11, 2012 City Council Meeting)
- 3) CONSIDERATION OF BILL NO. 2011-25: ADOPTION OF ORDINANCE NO 2011-_____. (Councilor Ortiz)
An Ordinance Amending Section 11-2.2 SFCC 1987 and Creating a New Section 11-2.6 SFCC 1987 Limiting General Fund Personnel Costs. (Dr. Melville Morgan) (Postponed at August 10, 2011 City Council Meeting) (Withdrawn by Sponsor)
- 4) Request from Mirador Gallery for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Alcohol at Mirador Gallery, 616 Canyon Road, which is Within 300 Feet of the Santa Fe Monthly Meeting of Friends Quaker Church, 630 Canyon Road and the Acequia Madre Elementary School, 700 Acequia Madre. The Request is for an Art Reception/Christmas Eve Party to be held on December 24, 2011 from 4:30 p.m. to 11:30 p.m.

J. ADJOURN

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been addressed, the meeting should be reconvened at 7:00 p.m., the following day and shall be adjourned not later than 12:00 a.m. Agenda items, not considered prior to 11:30 p.m., shall be considered when the meeting is reconvened or tabled for a subsequent meeting.

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 955-6520, five (5) days prior to meeting date.

H. PRESENTATION OF PROCLAMATION -- ST. ELIZABETH SHELTER DAY. (DEBORAH TANG)

Mayor Coss read a proclamation into the record, declaring December 15, 2011, St. Elizabeth Shelter Day in Santa Fe. He thanked them for their 25 years of service, and for all they do, saying it has made a huge difference in Santa Fe.

Deborah Tang thanked the City for its support in making the 25 years happen.

I. PUBLIC HEARINGS

1) REQUEST FOR APPROVAL OF THE RODEO DE SANTA FE INDOOR ARENA PROJECT PARTICIPATION AGREEMENT FOR A FEASIBILITY STUDY (MAYOR COSS). (FABIAN TRUJILLO)

Fabian Trujillo presented information from his Memorandum of December 13, 2011, which is in the Committee packet.

Public Hearing

Speaking to the request

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Wurzbarger moved, seconded by Councilor Bushee, to approve this request with the amendment from the Business and Quality of Life Committee, which requires a 6 month and 12 month report, to ensure we are in the loop and know what is happening. She said a lot has been promised, especially by the consultants with respect to jobs, and they want this information sooner rather than later.

DISCUSSION: Mayor Coss thanked the members of the Rodeo Association, commenting he thinks it is good for the Rodeo to stay where it is because it is part of our history and culture, as well as a great draw to Santa Fe. He thanked them for all the work they've done.

Councilor Bushee thanked everyone for their work and wished them well in their endeavors with the State Legislature, and congratulated Dave and Sally on their marriage.

Councilor Dominguez said he would echo what the Mayor and Councilor Bushee have said. He thinks it's a wonderful opportunity to have a Rodeo in the middle of the City. He thanked them for keeping it a part of our City as well.

Mayor Coss thanked Fabian Chavez for shepherding everyone through this process.

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

For: Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

- ~~2) **CASE #2011-106. APPEAL. SOMMER KARNES & ASSOCIATES, LLP, AGENT FOR MARK AND BETH JERNIGAN, APPEALS THE AUGUST 23 AND SEPTEMBER 13, 2011, DECISIONS OF THE HISTORIC DESIGN REVIEW BOARD IN CASE #H-11-079A, DESIGNATING THE MAIN HOUSE AND THE GUEST HOUSE AT 1041 CAMINO CRUZ BLANCA AS SIGNIFICANT. (DAVID RASCH AND KELLEY BRENNAN) Postponed to January 11, 2012 City Council Meeting.**~~

~~This item is postponed to the January 11, 2012 City Council meeting.~~

- ~~3) **CONSIDERATION OF BILL NO. 2011-25, ADOPTION OF ORDINANCE NO. 2011-____ (COUNCILOR ORTIZ). AN ORDINANCE AMENDING SECTION 11-2-2 SFCC 1987 AND CREATING A NEW SECTION 11-2-6 SFCC 1987, LIMITING GENERAL FUND PERSONNEL COSTS. (DR. MELVILLE MORGAN) (POSTPONED AT AUGUST 10, 2011 CITY COUNCIL MEETING) (Withdrawn by Sponsor)**~~

~~This item has been withdrawn by the sponsor.~~

- ~~4) **REQUEST FROM EL MIRADOR GALLERY FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF ALCOHOL AT MIRADOR GALLERY, 616 CANYON ROAD, WHICH IS WITHIN 300 FEET OF THE SANTA FE MONTHLY MEETING OF FRIENDS QUAKER CHURCH, 630 CANYON ROAD AND THE ACEQUIA MADRE ELEMENTARY SCHOOL, 700 ACEQUIA MADRE. THE REQUEST IS FOR AN ART RECEPTION/CHRISTMAS EVE PARTY TO BE HELD ON DECEMBER 24, 2011, FROM 4:30 P.M. TO 11:30 P.M.**~~

~~A copy of a Memorandum dated December 14, 2011, with attachments, to Mayor Coss & City Councilors, from Yolanda Y. Vigil, City Clerk, regarding this request, is incorporated herewith to these minutes as Exhibit "20."~~

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

This Memorandum of Understanding ("MOU") is made and entered into by and between the City of Santa Fe (the "City") and the County of Santa Fe ("County"). The date of this Agreement shall be the date when it is executed by the City and the County, whichever occurs last.

WITNESSETH:

WHEREAS, the New Mexico Local Economic Development Act, NMSA 1978, Section. 5-10-1 et seq. permits municipalities to assist qualifying entities with economic development projects through the use of public resources;

WHEREAS, the City has complied with the requirements of the Local Economic Development Act by adopting an economic development plan ordinance incorporating within that ordinance its community economic development plan, (11-11 SFCC (1987) Community Economic Development Plan and its Economic Development Strategy for Implementation, dated May 21, 2008;

WHEREAS, the City determined that it was in the interest of the welfare of the citizens of Santa Fe to enter into a Local Economic Development Act Project Participation Agreement (hereinafter "PPA") between the Rodeo Property, Inc, a New Mexico non-profit corporation, and the City for the purposes of effectuating the City's Economic Development Plan;

WHEREAS, on December 14, 2011 the City approved the Economic Development PPA between the City and Rodeo Property, Inc. whereby Rodeo Property, Inc., as a "Qualifying Entity" would receive \$100,000 in funding from the City for a project that would support the City's Economic Development Plan. Attached hereto are Exhibit A, the signed PPA dated 14, 2011 and the City's Meeting Agenda and Minutes as Exhibit B;

WHEREAS, pursuant to the PPA, the dispersal of \$100,000 by the City is contingent on: (1) the City's issuance and sale of sufficient gross receipts tax bonds for the purpose of procuring a contractor to complete a feasibility study that shall be the basis for securing additional funding for the planning, designing and construction of an indoor multipurpose facility, and (2) Rodeo Property, Inc. securing sufficient matching funds in the amount of \$100,000 to fully fund the feasibility study;

WHEREAS, the indoor multipurpose facility shall be designated for the following purposes: an indoor facility for disaster relief, rodeo events, sports events, and entertainment events (hereinafter referred to as the "Project");



WHEREAS, the City has issued gross receipt tax bonds sufficient to fund the feasibility study and Rodeo Property, Inc. has secured sufficient matching funds to fully fund the feasibility study;

WHEREAS, in the 2012 Legislative Session the State Legislature appropriated \$81,000 in severance tax bonds to the Rodeo Property, Inc. to plan, design, construct, equip and furnish an indoor multiuse area and regional disaster relief facility at the Rodeo de Santa Fe grounds in Santa Fe. The Local Government Division of the Department of Finance and Administration intends to grant to the Rodeo Property, Inc. \$81,000 for the Project which will serve to partially fulfill the match requirements of the PPA;

WHEREAS, Rodeo Property, Inc.'s match required under the PPA consist of the \$81,000 State Appropriation and through Santa Fe County Resolution 2012-78, \$19,000 in funds from the County which together provide a full match for the City's \$100,000 contribution toward the completion of the Project;

WHEREAS, the City's total contribution (\$100,000) towards paying the for the completion of a feasibility study will match Rodeo Property Inc. (\$81,000) and the County's contributions (\$19,000) on a 1:1 basis;

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Purpose

The purpose of this MOU to summarize the understanding of the City and the County for the transfer and expenditure of \$19,000 from the County for the purpose of serving as a partial match of City funds as set forth in the PPA. The goal of this match is to enhance the Rodeo de Santa Fe Local Economic Development Project that will improve the economy of the City and the County. The Project referred to herein is the completion of a feasibility study for the design, construct and completion of a multipurpose indoor facility at the Rodeo de Santa Fe grounds for use during disaster relief, rodeo events, sports events and entertainment events.

2. Scope of Understanding and Responsibilities of the Parties

The County shall:

A. Upon the approval of this MOA, the County shall issue a check in the amount of Nineteen Thousand Dollars (\$19,000) to the City for the purpose of funding a feasibility study to plan, design, construct, complete and equip the Project.

The City shall:

A. In compliance with the PPA, execute a Grant Agreement with the Local Government Division of the Department of Finance and Administration for the \$81,000 State appropriation.

B. Receive \$19,000 from the County and designate the expenditure of such contribution toward the feasibility study to plan, design, construct, complete and equip the Project.

C. In compliance with the PPA, the City shall allocate a not-to-exceed amount of \$100,000 to contract for the completion of a feasibility study to plan, design, construct, complete and equip the Project at the Rodeo de Santa Fe grounds in Santa Fe County.

D. Upon completion of the Project, the City shall provide a written report to the County identifying and itemizing the City's expenditure of the County's matching funds. Such report shall include copies invoices and corresponding cancelled checks.

3. Term

This MOU shall expire on June 30, 2013 unless otherwise extended by both the County and the City in writing in no less than 30 days prior to the expiration of this Agreement.

4. Termination

This MOU may be terminated by either of the parties hereto upon written notice delivered to the other party at least 30 days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

5. Liability

Neither party shall be liable for any claim, action demand, suit or judgment arising from the other party's performance under this MOU or the performance of the of the other parties' agents, officers, employees, representatives and subcontractors. Both parties shall only be liable for any claim, action, demand, suit or judgment arising from its own performance under this MOU or the performance of its own agents, officers, employees, representatives and subcontractors.

6. Status of City and County

The City and the County are separate legal entities. The City's agents and employees are not employees or agents of the County. The County's agents and employees are not employees of the City. No powers of the County, expressed or implied, shall be granted to the City on behalf of the County, excepting those set forth herein.

7. New Mexico Tort Claims Act

By entering into this MOU, neither party shall be responsible for liability incurred as a result of the party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, et seq. as amended. This paragraph is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. The City and its "public employees" as defined in the New Mexico Tort Claims Act, and the County and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

8. Third Party Beneficiaries

By entering into this MOU the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the County. No person shall claim any right, title or interest under this MOU or seek to enforce this MOU as a third party beneficiary of this MOU.

9. Amendment

This MOU shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

10. Notices

Any notices required to be given under this MOU shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

City of Santa Fe:

**City Manager
P. O. Box 909
Santa Fe, NM 87504-0909**

County:

**County Manager
County of Santa Fe
P.O. Box 276
102 Grant Avenue
Santa Fe, NM 87504-0276**

11. Confidentiality

Any confidential information provided to or developed by either party in the performance of this MOU shall be kept confidential and shall not be made available to any individual or organization by the other party without the prior written approval of the other party.

12. Conflict of Interest

Both parties warrant that they presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this MOU.

13. Assignment; Subcontracting

Neither party shall assign or transfer any interest in this MOU or assign any claims for money due or to become due under this MOU without the prior written approval of the other party.

14. Release

Both parties release each other, their officers and employees, from all liabilities, claims, and obligations whatsoever arising from or under this MOU. The parties agrees not to purport to bind each other to any obligation not assumed herein by the parties unless the parties have express written authority to do so, and then only within the strict limits of that authority.

15. Third Party Beneficiaries

By entering into this MOU the parties do not intend to create any right, title, or interest in or for the benefit of any person other than the City and the County. No person shall claim any right, title, or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

16. Records and Audit

The City shall maintain detailed time records that indicate the date, time, and nature of its expenditure of the County's \$19,000 contribution and the services rendered by its contractor. These records shall be subject to inspection by the County. The County shall have the right to audit the billing both before and after payment; payment under this Agreement shall not foreclose the right of the County to recover excessive illegal payments.

17. Applicable Law

This MOU shall be governed by the ordinances of the City of Santa Fe, the ordinances of Santa Fe County, and the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties set their hands.

CITY OF SANTA FE:

COUNTY OF SANTA FE:

David Coss, Mayor
City of Santa Fe



Katherine Miller, Manager
Santa Fe County

DATE: _____

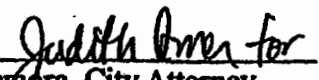
DATE: 11.7.12

ATTEST:

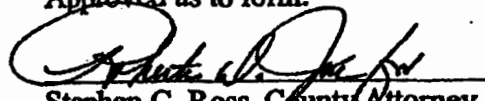
Yolanda Y. Vigil, Clerk
City of Santa Fe

Approved as to form:

Approved as to form:



Geno Zamora, City Attorney
City of Santa Fe




Stephen C. Ross, County Attorney
Santa Fe County

11/8/12

Approved:

Dr. Melville Morgan
Finance Director
City of Santa Fe

Approved:



Teresa C. Martinez, Director
Finance Department, Santa Fe County

SANTA FE COUNTY
RESOLUTION NO. 2012 - 78

**A RESOLUTION ADOPTING THE FINAL
2012-2013 (FY2013) BUDGET**

WHEREAS, the Santa Fe County Board of County Commissioners (BCC), the governing body in and for the County of Santa Fe, State of New Mexico, held an official meeting on May 29, 2012, for the study and review of a 2012-2013 (FY 2013) budget, with recognition of sources and uses of funds of said budget;

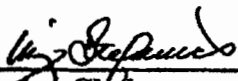
WHEREAS, the meeting on May 29, 2012, was duly advertised in compliance with the State Open Meetings Act and the Federal Statement of Assurances pertaining to the requirements for revenue funds, and the budget was duly approved at the meeting; and

WHEREAS, the State of New Mexico, Department of Finance and Administration, Local Government Division granted interim approval of the proposed operating budget for the 2012-2013 year (FY 2013) with documentation and technical adjustments as required.

NOW, THEREFORE, BE IT RESOLVED, that the BCC hereby adopts the 2012-2013 (FY 2013) "Final Budget" and respectfully requests final approval from the Local Government Division of the Department of Finance and Administration.

APPROVED, ADOPTED AND PASSED this 26th day of June 2012.

BOARD OF COUNTY COMMISSIONERS



Liz Stefani, Chairperson

ATTEST:



Valerie Espinoza, County Clerk



APPROVED AS TO FORM:



Stephen C. Ross, County Attorney



CITY OF SANTA FE)
E OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 2

Whereby Certify That This Instrument Was Filed for
Record On The 27TH Day Of June, 2012 at 09:46:42 AM
Was Duly Recorded as Instrument # 1673442
In The Records Of Santa Fe County

Valerie Espinoza
Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM



SANTA FE COUNTY

Resolution No. 2011-106

A RESOLUTION SUPPORTING THE RODEO DE SANTA FE CONTRIBUTIONS TO SANTA FE COUNTY

WHEREAS, Rodeo de Santa Fe (the "Rodeo") began in 1949 when Gene Pechesky and Austin "Slim" Green had a dream and the determination to organize a rodeo in Santa Fe,

WHEREAS, this dream exceeded their expectations and became what is today, one of the top 100 rodeos in the nation sanctioned by the Professional Rodeo Cowboys Association (PRCA)

WHEREAS, over 600 PRCA Cowboys & Women's Professional Rodeo Associations (WPRA) from all over the United States compete in the annual event,

WHEREAS, the Rodeo is a fun-filled family event for residents of Santa Fe and northern New Mexico as well as tourists visiting our community,

WHEREAS, the Rodeo boards horses during fire disaster, and heavy storms,

WHEREAS, the Rodeo has served as an evacuation center for regional and statewide needs during state of emergencies for livestock, etc.

WHEREAS, the Rodeo grounds provide affordable stabling and layover for equestrian and agricultural livestock, interstate and intrastate transport teams,

WHEREAS, the Rodeo has a national reputation for excellence,

WHEREAS, the Rodeo and the Santa Fe County Fair Board share a common mission to preserve and promote rural and agricultural traditions and culture of New Mexico;

WHEREAS, the Rodeo has been a strong supporter of the Santa Fe County Fair through networking and the sharing of facilities and resources, and

WHEREAS, the Rodeo and its annual events have built an impeccable reputation as a charitable and responsible member of the Santa Fe community and region.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS HEREBY RESOLVES that the County of Santa Fe recognizes the benefits of the Rodeo de Santa Fe to the County and the County Fairgrounds property.

PASSED, APPROVED, and ADOPTED this 9th day of August 2011.

FILED BY JOHN STEINBERGER, CLERK

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

Virginia Vigil
Virginia Vigil, Chair

ATTEST:

Valerie Espinoza
Valerie Espinoza, Santa Fe County Clerk

APPROVED AS TO FORM:

Stephen C. Ross
Stephen C. Ross, Santa Fe County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 2

I Hereby Certify That This Instrument Was Filed for
Record On The 10TH Day Of August, 2011 at 10:42:06 AM
And Was Duly Recorded as Instrument # 1642283
Of The Records Of Santa Fe County

Deputy *Marcelle [Signature]* Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

“EXHIBIT E TO AMENDED PPA”

MORTGAGE

THIS MORTGAGE, made this 26th day of February, 2013, by and between Rodeo Property, Inc., a New Mexico non-profit corporation, whose address is P.O. Box 22661, Santa Fe, New Mexico 87502, (“Rodeo Property”), and the City of Santa Fe, New Mexico, whose address is 200 Lincoln Ave., Santa Fe, New Mexico, 87504-0909, (“City”), to secure the performance of certain defined obligations (“Deliverables”) as described in the Amended Project Participation Agreement (“APPA”) dated February 26, 2013 between Rodeo Property and the City.

In consideration of the contributions to Rodeo Property made by the City of Santa Fe, New Mexico, the State of New Mexico, and the County of Santa Fe, totaling \$200,000.00 (Two Hundred Thousand Dollars and 00/100) (“Contributions”) and for the purposes expressed above, the Rodeo Property does hereby grant and convey to the City, with Statutory Mortgage Covenants, the land, buildings, permanent improvements and fixtures, in the County of Santa Fe, State of New Mexico, and being more particularly described as:

Tract E as shown on plat of survey entitled “Boundary Survey Lot line Adjustments for the Rodeo Property et. al.” filed for record on June 6, 1996 as Document No.948.361 in Plat Book 336 at pages 16-17, records of Santa Fe County, New Mexico, consisting of 28.030 acres, more or less.

Hereafter, referred to as the “Property.”

Rodeo Property further covenants and agrees that:

1. The total amount of the Mortgage and rights of the City in the Property shall not exceed \$200,000 (hereafter the “Funds”). There shall be no interest, penalties or other fines or assessments added to the total encumbrance against the property, except as specifically stated herein.

2. The Term of this Mortgage shall be for five (5) years from the recording of this Mortgage or until the Deliverables of the APPA that were promised in exchange for the Contribution are performed in full or to the satisfaction of the City. The City shall, upon Rodeo Property’s satisfactory performance of Deliverables, terminate this Mortgage regardless if the full five (5) years has expired.

3. Rodeo Property shall perform all Deliverables that were promised in exchange for the Contribution, as provided in the APPA secured hereby, or any renewal or extension thereof, and in the manner, form, and at the time or times provided in said obligation or in any renewal or extension thereof;

4. Rodeo Property shall perform the conditions of any prior mortgage, encumbrance, condition, or covenant;

5. Rodeo Property shall pay when due all taxes, charges, and assessments against the Property or on any interest therein; that Rodeo Property shall pay when due, charges for electrical, gas, sewage, water, and all other utility and other charges, fines, or impositions, and all laborers', mechanics', or materialmen's or other liens of whatsoever kind that may be laid or assessed upon the Property or on any interest therein;

6. If Rodeo Property fails to perform the Deliverables that were promised in exchange for the Contribution and as set forth in the APPA, the City may do and pay for whatever is reasonable to protect the value of the City's rights in the APPA, and if the Property is sold after a default is declared in the manner and form prescribed by law; that, in the event of any sale hereunder, the City shall be entitled to a credit on any payments paid in addition to the amount of its interest as determined by paragraph 7, below.

7. If Rodeo Property does not substantially fulfill the specific Deliverables promised in exchange for the Contribution, the City may declare this Mortgage in default and take necessary steps to recover all or a pro-rata portion of the City's investment of Funds consistent with the terms of the APPA.

8. If Rodeo Property transfers ownership or any security interest in the mortgaged property, whether voluntarily or involuntarily, the City may at its option declare the Deliverables due according to paragraph 7, above.

9. This Mortgage is security for all other direct and contingent liabilities of Rodeo Property, if any, that are due or become due whether now existing or hereafter contracted with the City.

10. Rodeo Property shall maintain adequate insurance on the Property in amounts and in a form of coverage acceptable to the City.

11. Rodeo Property shall not commit waste or permit others to commit actual, permissive or constructive waste on the property.

12. A waiver of any obligation hereunder shall not be held to be a waiver of the terms hereof or of the obligations secured hereby. No sale of the Property and no forbearance on the part of the City and no extension of time for performance of the APPA shall operate to release, discharge, modify, change, or affect in any way the obligations under the APPA or this Mortgage.

13. Rodeo Property, Inc. and its successors, covenants with the City and its successors and assigns that it is lawfully seized in fee simple of the granted Property; that it is free from all encumbrances; that Rodeo Property has good right to sell and convey the same; and that it will, and its successors will warrant and defend the same to the City and its successors and assigns forever against the lawful claims and demands of all persons.

14. This Mortgage is upon the Statutory Mortgage Conditions and other conditions set forth herein, for breach of which the City shall have the Statutory Power of Sale to the extent existing under New Mexico Law.

IN WITNESS WHEREOF, the Rodeo Property, Inc. has executed this Mortgage the day and year first above written.

RODEO PROPERTY, INC., a
New Mexico, non-profit corporation

By: _____

David Copher, President

By: _____

Vince Daniels, Secretary

