

**City of Santa Fe, NM  
Regular Committee  
Monday, June 03, 2019  
5:00 PM – Finance Committee  
Council Chambers**

**AGENDA**

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF CONSENT AGENDA**

**5. APPROVAL OF MINUTES**

- a) Regular Finance Committee Meeting Minutes - May 20, 2019
- b) Special Finance Committee Meeting - April 24, 2019  
Item 5b.pdf
- c) Special Finance Committee Meeting - April 25, 2019  
Item 5c.pdf

**CONSENT AGENDA**

- a) Request for Approval of Amendment No. 1 to Professional Services Agreement Item #19-0202, for On-Call HVAC and Plumbing Services for Midtown Campus in the Amount of \$55,975.54 Inclusive of NMGR, Which Will Increase the Total Contract from \$65,062.50 to \$121,038.04; B&D Industries, Inc. (Sam Burnett, Public Works Property Maintenance Manager, jsburnett@santafenm.gov, 955-5933)  
Item a.pdf
- b) Request for Approval of Amendment No. 7 to Professional Services Agreement in the Total Amount of \$939,224.96. plus Applicable Gross Receipts Tax for Professional Security Services; Universal Protection Service, LP/DBA Allied Universal Security Services. (David Silver, dmsilver@santafenm.gov, 505-955-6537)  
Item b.pdf
- c) Request for Approval to Extend Professional Services Contract #16-0573, with Anthony Tupler, Attorney at Law, for Parking Citation Administrative Hearing Services for One Additional and Final Year to June 30, 2020 (Noel Correia, Parking Division Director, npcorreia@santafenm.gov, 955-6611)  
Item c.pdf
- d) Request (re-Request) for Approval for the Procurement of a 2019 Chevrolet Tahoe and one 2019 Chevrolet Silverado 1500 for the City of Santa Fe Fire Department in the Amount of \$77,377; Melloy Chevrolet in Los Lunas. (Jan Snyder, Assistant Fire Chief, jmsnyder@santafenm.gov, 955-3121)  
Item d.pdf
- e) Request for Approval for the Procurement of Two (2) 2019 Chevrolet Malibu Hybrids and Three (3) 2019 Chevrolet Equinox for the City of Santa Fe Fire Department in the Amount of \$119,312; Melloy Chevrolet in Los Lunas. (Jan Snyder, Assistant Fire Chief, jmsnyder@santafenm.gov, 955-3121)  
Item e.pdf

f) Request for Review and Approval of Community Development Block Grant (CDBG) Professional Services Agreement Amendments (Jacqueline Beam, Office of Affordable Housing, jybeam@santafenm.gov, 955-6574)

1. Homewise Amendment #3 Professional Services Agreement - Fiscal Year 2018-19 CDBG Extension of Term and Program Income Revisions

2. Homewise Amendment #1 Professional Services Agreement - Fiscal Year 2018-19 CDBG Extension of Term and CFR Language Revisions

3. Santa Fe Community Housing Trust Amendment #1 Professional Services Agreement – Fiscal Year 2018-19 CDBG Extension of Term and CFR Language Revisions

Item f.pdf

g). Request for Approval of Amendment No. 1 to Professional Services Agreement in and Additional Amount of \$947,455.83 for Professional Engineering and Architectural Services, Increasing the Original Contract Sum to \$1,947,455.83; and Approval of Task Order Numbers 2018-1 through 2018-8; Molzen Corbin & Associates (Mark Baca, Airport Manager, mdbaca@santafenm.gov, 955-2901)

Item g.pdf

h) Request for Approval of Amendment No. 4 to Professional Services Contract with KONE, Inc., to Increase Purchase Order #18190968 by \$13,000 in Order to Pay for Invoices Tied to Unforeseen Service Calls Made This Fiscal Year Due to Vandalism (Noel Correia, Parking Division Director, npcorreia@santafenm.gov, 955-6611)

tem h.pdf

i) Request for Acceptance of the 2018 Audit and Corrective Action Plan; Department of Finance Administration.

Item i.pdf

j) Request for Approval of Amendment No. 2 to Professional Service Agreement in the Total Amount of \$50,000 for Certified Folder Display Service, Inc., (Randy Randall, TSF Executive Director, rrandall@santafenm.gov, 955-6209)

Item j.pdf

k) Request for Approval of Amendment No. 5 to Professional Services Agreement in the Total Amount of \$24,000 for Fun and Games, Inc., (Randy Randall, TSF Executive Director, rrandall@santafenm.gov, 955-6209)

Item k.pdf

l) Request for Approval of Amendment No. 1 to Professional Services Agreement in the Total Amount of \$130,000 for Lou Hammond & Associates (Randy Randall, TSF Executive Director, rrandall@santafenm.gov, 955-6209)

Item l.pdf

m) Request for Approval of Amendment No.2 to Professional Services Agreement in the Total Amount of \$150,000 for Studio X Inc., (Randy Randall, TSF Executive Director, rrandall@santafenm.gov, 955-6209)

Item m.pdf

n) Request for Approval of Amendment No. 5 to Professional Services Agreement in the Total Amount of \$67,750.31 for TRANE U.S. Inc., (Randy Randall, TSF Executive Director, rrandall@santafenm.gov, 955-6209)

Item n.pdf

o) Request for Approval of a Resolution Repealing Resolutions 2000-47, 2003-18, and 2010-68, Which Created and Amended the Santa Fe Regional Juvenile Justice Board. (Councilor Abeyta) (Julie Sanchez, Children and Youth Program Manager, jjsanchez@santafenm.gov, 955-6678)

Fiscal Impact: None

## Committee Review:

Regional Juvenile Justice Board	5/22/19 (postponed)
Children and Youth Commission	5/28/19 (approved)
Regional Juvenile Justice Board	6/19/19 (scheduled)
City Council (public hearing)	6/26/19 (scheduled)
<u>Item o.pdf</u>	

p) Request for Approval of a Resolution Endorsing the North Central Regional Transit District's FY2020 Budget Proposal, Approving the City of Santa Fe's FY2020 Regional Transit Plan; Funding the Mountain Trail 255 Route; and Directing Staff to Submit The City's Regional Transit Plan for FY2020 to the North Central Regional Transit District board of Directors for Consideration and Approval (Councilor Romero-Wirth) (Keith Wilson, Transit Division Director, kpwilson@santafenm.gov, 955-2223)

Fiscal Impact: \$1,051,855 in Regional Transit GRT from the NCRTD; \$25,000 for costs associated with the Mountain Trail 255.

## Committee Review:

Transit Advisory Board	5/28/19 (approved)
Public Works Committee	5/28/19 (approved)
City Council	6/12/19 (scheduled)
<u>Item p.pdf</u>	

q) Request for Approval of a Resolution Urging Congress to Clarify That the Rights Protected Under the United States Constitution Are the Rights of Human Beings and Not the Rights of Artificial Entities and That Governments May and Shall Regulate Campaign Contributions and Expenditures to Protect the People from Corruption and Undue or Disproportionate Influence in Elections and Government; Asking That Congress Propose a Constitutional Amendment to Provide Such Clarification. (Mayor Webber) (Jesse Guillen, Legislative Liaison, jbg Guillen@santafenm.gov, 955-6518)

Fiscal Impact: None

## Committee Review:

City Council	6/12/19 (scheduled)
<u>Item q.pdf</u>	

r) Request for Approval of an Ordinance Granting to Public Service Company of New Mexico ("PNM"), a New Mexico Corporation, a Franchise to Furnish Electricity Within the City of Santa Fe, Santa Fe County, New Mexico, and Granting to PNM the Right to Use Any Public Highway, Street, Alley, Road, or Other Public Place Within the Present or Future Municipal Limits of the City of Santa Fe (Mayor Webber) (Marcos Martinez, Assistant City Attorney, mdmartinez@santafenm.gov, 955-6502)

Fiscal Impact: \$2.27M revenue from franchise fees in FY20; \$36-60k in increases to the City's electric bill.

## Committee Review:

Public Works Committee	5/28/19 (approved as amended)
City Council (request to publish notice)	5/29/19 (scheduled)
Public Utilities Committee	6/5/19 (scheduled)
City Council (public hearing)	6/26/19 (scheduled)
<u>Item r.pdf</u>	

Action sheet-PNM.pdf

s) Request for Approval of an Ordinance Amending Subsection 6-10.2 SFCC 1987 Regarding the Membership and Terms of the Children and Youth Commission. (Councilor Abeyta) (Julie Sanchez, Children and Youth Program Manager, jjsanchez@santafenm.gov, 955-6678)

Fiscal Impact: None

Committee Review:

Regional Juvenile Justice Board  
Children and Youth Commission  
City Council (request to publish)  
Regional Juvenile Justice Board  
City Council (public hearing)  
Item s.pdf

5/22/19 (postponed)  
5/28/19 (approved)  
5/29/19 (scheduled)  
6/19/19 (scheduled)  
6/26/19 (scheduled)

**MATTERS FROM STAFF**

**MATTERS FROM THE COMMITTEE**

**ADJOURN**

RECEIVED AT THE CITY CLERK'S OFFICE  
DATE: May 30, 2019  
TIME: 4:54 PM

**SUMMARY OF ACTION  
FINANCE COMMITTEE  
CITY HALL/ COUNCIL CHAMBERS  
MONDAY, JUNE 3, 2019, 5:00 PM**

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE</u></b>
<b>CALL TO ORDER</b>		<b>1</b>
<b>ROLL CALL</b>	<b>QUORUM</b>	<b>1</b>
<b>APPROVAL OF AGENDA</b>	<b>APPROVED</b>	<b>1</b>
<b>APPROVAL OF CONSENT AGENDA</b>	<b>APPROVED</b>	<b>1-2</b>
<b><u>APPROVAL OF MINUTES</u></b>		
<b>REGULAR FINANCE COMMITTEE MEETING MINUTES, MAY 20, 2019</b>	<b>POSTPONED</b>	<b>2</b>
<b>SPECIAL FINANCE COMMITTEE MEETING, APRIL 24, 2019</b>	<b>APPROVED</b>	<b>2</b>
<b>SPECIAL FINANCE COMMITTEE MEETING, APRIL 25, 2019</b>	<b>APPROVED</b>	<b>2</b>
<b><u>CONSENT AGENDA</u></b>		
<b>REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT ITEM #19-0202, FOR ON-CALL HVAC AND PLUMBING SERVICES FOR MIDTOWN CAMPUS IN THE AMOUNT OF \$55,975.54 INCLUSIVE OF NMGR, WHICH WILL INCREASE THE TOTAL CONTRACT FROM \$85,062.50 TO \$121,038.04; B&amp;D INDUSTRIES, INC.</b>	<b>APPROVED ON CONSENT</b>	<b>3</b>

<b>REQUEST FOR APPROVAL OF AMENDMENT NO. 7 TO PROFESSIONAL SERVICES AGREEMENT IN THE TOTAL AMOUNT OF \$939,224.96 PLUS APPLICABLE GROSS RECEIPTS TAX FOR PROFESSIONAL SECURITY SERVICES; UNIVERSAL PROTECTION SERVICE, LP/DBA ALLIED UNIVERSAL SECURITY SERVICES.</b>	<b>POSTPONED</b>	<b>3-8</b>
---	------------------	------------

<b>REQUEST FOR APPROVAL TO EXTEND PROFESSIONAL SERVICES CONTRACT #16-0573, WITH ANTHONY TUPLER, ATTORNEY AT LAW, FOR PARKING CITATION HEARING SERVICES FOR ONE ADDITIONAL AND FINAL YEAR TO JUNE 30, 2020.</b>	<b>APPROVED ON CONSENT</b>	<b>8</b>
--	----------------------------	----------

<b>REQUEST (RE-REQUEST) FOR APPROVAL FOR THE PROCUREMENT OF A 2019 CHEVROLET TAHOE AND ONE 2019 CHEVROLET SILVERADO 1500 FOR THE CITY OF SANTA FE FIRE DEPARTMENT IN THE AMOUNT OF \$77,377; MELLOY CHEVROLET IN LOS LUNAS.</b>	<b>APPROVED ON CONSENT</b>	<b>8</b>
---	----------------------------	----------

<b>REQUEST FOR APPROVAL OF TWO (2) 2019 CHEVROLET MALIBU HYBRIDS AND THREE (3) 2019 CHEVROLET EQUINOX FOR THE CITY OF SANTA FE FIRE DEPARTMENT IN THE AMOUNT OF \$119,312; MELLOY CHEVROLET IN LOS LUNAS.</b>	<b>APPROVED ON CONSENT</b>	<b>8-9</b>
---	----------------------------	------------

<b>REQUEST FOR REVIEW AND APPROVAL OF COMMUNITY BLOCK GRANT 9CDBG) PROFESSIONAL SERVICES AGREEMENT AMENDMENTS.</b>	<b>APPROVED ON CONSENT</b>	<b>9</b>
--	----------------------------	----------

<b>REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT IN AN ADDITIONAL AMOUNT OF \$947,455.83</b>	<b>APPROVED</b>	<b>9-10</b>
---	-----------------	-------------

**FOR PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES, INCREASING THE ORIGINAL CONTRACT SUM TO \$1,947,455.83; AND APPROVAL OF TASK ORDER NUMBERS 2018-1 THROUGH 2018-8; MOLZEN CORBIN & ASSOCIATES.**

**REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES CONTRACT WITH KONE, INC., TO INCREASE PURCHASE ORDER #18190968 BY \$13,000 IN ORDER TO PAY FOR INVOICES TIED TO UNFORSEEN SERVICE CALLS MADE THIS FISCAL YEAR DUE TO VANDALISM.**

**APPROVED ON CONSENT 10**

**REQUEST FOR APPROVAL OF THE 2018 AUDIT AND CORRECTIVE ACTION PLAN; DEPARTMENT OF FINANCE ADMINISTRATION.**

**APPROVED ON CONSENT 10**

**REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICE AGREEMENT IN THE TOTAL AMOUNT OF \$50,000 FOR CERTIFIED FOLDER DISPLAY SERVICE, INC.**

**APPROVED ON CONSENT 10**

**REQUEST FOR APPROVAL OF AMENDMENT NO. 5 TO PROFESSIONAL SERVICES AGREEMENT IN THE TOTAL AMOUNT OF \$24,000 FOR FUN AND GAMES, INC.**

**APPROVED ON CONSENT 11**

**REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT IN THE TOTAL AMOUNT OF \$130,000 FOR LOU HAMMOND & ASSOCIATES.**

**APPROVED ON CONSENT 11**

**REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT IN THE TOTAL**

**APPROVED ON CONSENT 11**

**AMOUNT OF \$150,000 FOR  
STUDIO X INC., TSF.**

<b>REQUEST FOR APPROVAL OF AMENDMENT NO. 5 TO PROFESSIONAL SERVICES AGREEMENT IN THE TOTAL AMOUNT OF \$67,750.31 FOR TRANE U.S. INC.</b>	<b>APPROVED ON CONSENT</b>	<b>11</b>
--	----------------------------	-----------

<b>REQUEST FOR APPROVAL OF A RESOLUTION REPEALING RESOLUTIONS 2000-47, 2003-18 AND 2010-68, WHICH CREATED AND AMENDED THE SANTA FE REGIONAL JUVENILE JUSTICE BOARD.</b>	<b>POSTPONED</b>	<b>11</b>
---	------------------	-----------

<b>REQUEST FOR APPROVAL OF A RESOLUTION ENDORSING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT'S FY2020 REGIONAL TRANSIT PLAN; FUNDING THE MOUNTAIN TRAIL 255 ROUTE; AND DIRECTING STAFF TO SUBMIT THE CITY'S REGIONAL TRANSIT PLAN FOR FY2020 TO THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT BOARD OF DIRECTORS FOR CONSIDERATION AND APPROVAL.</b>	<b>APPROVED ON CONSENT</b>	<b>11</b>
---	----------------------------	-----------

<b>REQUEST FOR APPROVAL OF A RESOLUTION URGING CONGRESS TO CLARIFY THAT THE RIGHTS PROTECTED UNDER THE UNITED STATES CONSTITUTION ARE THE RIGHTS OF HUMAN BEINGS AND NOT THE RIGHTS OF ARTIFICIAL ENTITIES AND THAT GOVERNMENTS MAY AND SHALL REGULATE CAMPAIGN CONTRIBUTIONS AND EXPENDITURES TO PROTECT THE PEOPLE FROM CORRUPTION AND UNDUE DISPROPORTIONATE INFLUENCE IN ELECTIONS AND GOVERNMENT; ASKING THAT CONGRESS PROPOSE A CONSTITUTIONAL AMENDMENT TO</b>	<b>APPROVED ON CONSENT</b>	<b>11-12</b>
---	----------------------------	--------------

**PROVIDE SUCH CLARIFICATION.**

<b>REQUEST FOR APPROVAL OF AN ORDINANCE GRANTING TO PUBLIC SERVICE COMPANY OF NEW MEXICO ("PNM"), A NEW MEXICO CORPORATION, A FRANCHISE TO FURNISH ELECTRICITY WITHIN THE CITY OF SANTA FE, SANTA FE COUNTY, NEW MEXICO, AND GRANTING TO PNM THE RIGHT TO USE ANY PUBLIC HIGHWAY, STREET, ALLEY, ROAD, OR OTHER PUBLIC PLACE WITHIN THE PRESENT OR FUTURE MUNICIPAL LIMITS OF THE CITY OF SANTA FE.</b>	<b>APPROVED</b>	<b>12-14</b>
<b>REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SUBSECTION 6-10.2 SFCC 1987 REGARDING THE MEMBERSHIP AND TERMS OF THE CHILDREN AND YOUTH COMMISSION.</b>	<b>POSTPONED</b>	<b>14</b>
<b>MATTERS FROM STAFF</b>	<b>NONE</b>	<b>14</b>
<b>MATTERS FROM THE COMMITTEE</b>	<b>NONE</b>	<b>14</b>
<b>ADJOURN</b>	<b>ADJOURNED</b>	<b>14</b>

**FINANCE COMMITTEE  
CITY HALL/ COUNCIL CHAMBERS  
MONDAY, JUNE 3, 2019, 5:00 PM**

**1. CALL TO ORDER**

The meeting of the Finance Committee, was called to order by Councilor Roman Abeyta, Chair, at 5:00 pm on Monday, June 3, 2019 at City Hall in the City Council Chambers, Santa Fe, New Mexico.

**2. ROLL CALL**

**MEMBERS PRESENT**

Councilor Roman Abeyta, Chair  
Councilor Christopher Rivera  
Councilor Signe Lindell  
Councilor Michael Harris  
Councilor Carol Romero-Wirth

**MEMBERS ABSENT**

**OTHERS PRESENT**

Councilor Peter Ives  
Mary McCoy, Finance Department Director  
Christina Keyes, Finance Department  
Bernadette Salazar, Human Services Director  
Elizabeth Martin, Stenographer

**3. APPROVAL OF AGENDA**

Chair Abeyta said the May 20<sup>th</sup> minutes are not ready and will be voted on at the next Finance Committee meeting. Items O and S are postponed per Ms. McCoy.

**MOTION** A motion was made by Councilor Rivera, seconded by Councilor Lindell, to approve the agenda as amended.

**VOTE** The motion passed unanimously by voice vote.

**4. APPROVAL OF CONSENT AGENDA**

Councilor Rivera asked to be added to item Q as a co-sponsor.

Councilor Lindell pulled item B for discussion.

Councilor Harris pulled items G and R for discussion.

Chair Abeyta said item I was not pulled, but he noticed that there is no corrective action plan in the packet. He would like that to be made available to the public.

Ms. McCoy said it was presented back in February. What is before you tonight is the Resolution stating that you have had the presentation. We will make it public.

**MOTION** A motion was made by Councilor Lindell, seconded by Councilor Harris, to approve the consent agenda as amended.

**VOTE** The motion passed unanimously by voice vote.

## **5. APPROVAL OF MINUTES**

### **A. REGULAR FINANCE COMMITTEE MEETING MINUTES MAY 20, 2019**

These minutes were not available. The item was postponed to the next meeting.

### **B. SPECIAL FINANCE COMMITTEE MEETING, APRIL 24, 2019**

**MOTION** A motion was made by Councilor Harris, seconded by Councilor Lindell, to approve the minutes of April 24, 2019.

**VOTE** The motion passed unanimously by voice vote.

### **C. SPECIAL FINANCE COMMITTEE MEETING, APRIL 25, 2019**

**MOTION** A motion was made by Councilor Lindell, seconded by Councilor Harris, to approve the minutes of April 25, 2019.

**VOTE** The motion passed unanimously by voice vote.

## **6. CONSENT AGENDA**

- A) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT ITEM #19-0202, FOR ON-CALL HVAC AND PLUMBING SERVICES FOR MIDTOWN CAMPUS IN THE AMOUNT OF \$55,975.54 INCLUSIVE OF NMGR, WHICH WILL INCREASE THE TOTAL CONTRACT FROM \$85,062.50 TO \$121,038.04; B&D INDUSTRIES, INC. Sam Burnett**

Approved on consent.

- B) REQUEST FOR APPROVAL OF AMENDMENT NO. 7 TO PROFESSIONAL SERVICES AGREEMENT IN THE TOTAL AMOUNT OF \$939,224.96 PLUS APPLICABLE GROSS RECEIPTS TAX FOR PROFESSIONAL SECURITY SERVICES; UNIVERSAL PROTECTION SERVICE, LP/DBA ALLIED UNIVERSAL SECURITY SERVICES. David Silver**

Councilor Rivera asked the Railyard Visitor Center moved from something they will be protecting, is that correct. Also is there detail included here on the hourly rates.

Mr. Silver said yes. The original contract explained the hourly rate for officers. That still remains. The way we wrote the contract amendment going forward is by level of the Security Officer. It doesn't spell out the number of hours in this contract. We identify the level of Security Officer's rate and the total amount of the contract. The number of hours a month for each site we have, but it is not in the contract.

Councilor Rivera asked we are removing the Railyard Visitor Center and adding another place that the City has a need for.

Mr. Silver said yes.

Councilor Rivera asked the entire contract amount is going up.

Mr. Silver said yes. The amendment done mid year to add Midtown was not in the original contract. It doubled.

Councilor Rivera said on page 3 is the summary of the increases. There is a 3% salary increase included.

Mr. Silver said they asked to increase rates by 3% for next fiscal year. It goes directly to the security officers as a cost of living increase.

Councilor Rivera said the original contract was at a certain rate that everyone bid on.

Mr. Silver said yes. The contract permits the increase in rates.

Councilor Rivera asked why would they not just supply the 3% themselves since they bid without it.

Mr. Silver said originally they did not expect the cost of living to increase and did not build anything into the contract. The way the RFP was written we only asked for the first year rate, not subsequent years.

Councilor Rivera said he does not think it is right to do this when we are giving our own employees 2%. He appreciates the work they do, but he is not in favor of the language in the contract for that.

Councilor Lindell said she is not clear about this. Is this a one or four year contract.

Mr. Silver said it was written as one year with the option to extend to four. This is year two.

Councilor Lindell asked are we committed to this increase for the next two years.

Mr. Silver said it depends on the services requested by the Departments. We review this annually as well as throughout the year.

Councilor Lindell said the summary on page 3, does all that add up to the amount of the increase we are talking about. The FIR says we are looking at an increase of \$939,224.

Mr. Silver said correct. It was written for one fiscal year and we are extending for another fiscal year and the next fiscal year is that amount.

Councilor Lindell asked what is the dollar amount we are actually increasing by. It is an increase of over \$400,000.

Mr. Silver said there were amendments over the last fiscal year that made changes as well.

Councilor Lindell asked is covering these hours adding up to the increase.

Mr. Silver said it adds up to the total amount. The spreadsheet toward the back of the packet lists locations and the number of hours for each location.

Councilor Lindell asked we have 280 hours per week of security on the campus.

Mr. Silver said correct, 24 hours a day and at night two officers for the overnight

hours. These are services requested by the Departments, not his direction. It is based on their needs.

Councilor Lindell said she agrees with Councilor Rivera that it does not seem right to have the 3% cost of living. Certainly she supports people getting pay raises, but she is not sure it is on us to absorb raises for the company that are not in our contract. She is not sure she can support this the way it is written.

Councilor Harris said looking at the graph on page 2 of the memo he is struck by the count of incident reports at the Airport. 157 of 268, 60%. He would like a report on what is in that.

Mr. Silver said the majority of those is the alarms. That is what makes up the highest number of incident reports. All the doors leading into the secure area at the Airport have alarms on them. If a door is not closed within the time frame it triggers an alarm.

Councilor Harris said he would like a precise breakdown of the 60% of the incident reports at the Airport.

Councilor Harris said under amendment 6 another horrible incident happened in a public building. Was this decision made by the Mayor.

Mr. Silver said the City Manger and the Mayor.

Councilor Harris said he guesses we should revisit this with them. He is not sure it is their call. We had a discussion not too long ago about a different contract where the Water Division on San Mateo had a reason for having a level 3 Security Officer there because they handle cash. This is a building that generates more attention than the San Mateo building does. He thinks we need to revisit that. He will bring it up with the Mayor and City Manager and talk to his colleagues on the Council. Some effort should be made to take the pulse of staff at risk.

Councilor Romero-Wirth said if we are going to look at security for this building the security we had in the building left something to be desired. She is not interested in paying someone to sit on a computer who has no idea what is going on. The fact is that we eliminated that part of the contract because they were not doing the job they were paid for. If we bring it back we need real security here.

Chair Abeyta asked what is the urgency of getting this contract approved by June 12<sup>th</sup>. Will we not have security service on July 1 if we don't do this.

Mr. Silver said correct.

Councilor Rivera asked the contract that is there is what stands. The amendment

has the 3% increase.

Mr. Silver said the amendment extends for another fiscal year and adds the new amount cost for service for the next fiscal year.

Councilor Rivera said the initial contract was around \$500,000. Then we added some things. What was left was \$139,000 which is the 3%.

Mr. Silver said all the money from this fiscal year is expended.

Councilor Rivera said if we do not approve the 3% will the remainder of the contract still stand.

Mr. Silver said there would be no money for Departments to get a PO for the next fiscal year.

Councilor Rivera asked what if we all want it to continue without the 3%.

Mr. Silver said he would have to go back to the contract and tell them the desire of the Committee.

Councilor Lindell said the 3% on this contract would be about \$30,000.

Chair Abeyta said the \$139,000 is more than the 3%, so what is the rest.

Mr. Silver said modifications were made to the contract for next fiscal year. The Airport is in need of guards for next year. He doesn't have the breakdown with him that compares last fiscal year to this fiscal year.

Chair Abeyta said the increase is not just based on 3%, but also the need of services across Departments.

Mr. Silver said yes.

Councilor Rivera asked you don't have that breakdown.

Mr. Silver said no, it is reflected in each amendment, but he could create something.

Councilor Rivera asked does the procurement policy address the issue of if we were in the second year of the contract, someone could say they bid low to win the award and are not increasing their fees. That does not seem right to others who may have bid.

Mr. Silver said the only difference in the rate is the 3%. The base rate did not

increase.

Ms. McCoy said it would depend on how the original RFP was set up. She can take a look at that and get back to you. David can you speak to the original RFP.

Mr. Silver said the original RFP only asked for costs for one fiscal year.

Councilor Rivera asked how are we doing amendments then.

Mr. Silver said the RFP asked for costs for the first year of service. The contract within the RFP says services could be extended for the next three years and rates negotiated.

Chair Abeyta said a lot of the increase is the City adding service.

Mr. Silver said correct.

Chair Abeyta said he can see Councilor Rivera's point. Who controls the staff levels and increases. What assurances do we have in place. Who monitors this.

Mr. Silver said the request came in for the 3% and he discussed it with the City Manager and site managers.

Chair Abeyta said he is talking about who monitors Departments that want more and more security. Do we get to a point that it is way beyond the original approval.

Mr. Silver said the original contract was for blanket security service. There was a discussion with Legal about how much we could add to this contract without doing an additional RFP. They did not give a limit.

Chair Abeyta said that is problematic.

Councilor Rivera said in the budget we just passed clearly the contract amount was included in each budget using security services. How do they budget for the increase.

Mr. Silver said the proposed amounts with the 3% was included in each of their budgets.

Councilor Rivera said this is first time he has heard of the 3%. If he knew he would have brought it up then.

Chair Abeyta asked when is last City Council meeting in June.

Ms. McCoy said June 21<sup>st</sup>. Finance will be on June 17<sup>th</sup>.

Chair Abeyta said it could come back to us on June 17<sup>th</sup> or we could act on it and recommend approval without the 3%. Is that correct.

Ms. McCoy said correct.

Councilor Rivera said you said the 3% was negotiated. Who negotiated it.

Mr. Silver said him, the City Manger and all the individual site managers.

Councilor Rivera asked did you try to negotiate for a lesser amount.

Mr. Silver said they asked for 5% and he asked them to come back with a more reasonable request. They came back with 3%.

**MOTION** A motion was made by Councilor Rivera, seconded by Councilor Lindell, to postpone this request to the next Finance Committee meeting and to ask Mr. Silver to go back and tell them we are not in favor of funding the 3% increase.

Councilor Rivera said we need to see what their answer is. Also he would like additional information about additional locations and the cost of work and breakdown of the cost per site and what the actual 3% would be if they are not willing to back down from that.

**VOTE** The motion passed unanimously by voice vote.

**C) REQUEST FOR APPROVAL TO EXTEND PROFESSIONAL SERVICES CONTRACT #16-0573, WITH ANTHONY TUPLER, ATTORNEY AT LAW, FOR PARKING CITATION HEARING SERVICES FOR ONE ADDITIONAL AND FINAL YEAR TO JUNE 30, 2020. Noel Correia**

Approved on consent.

**D) REQUEST (RE-REQUEST) FOR APPROVAL FOR THE PROCUREMENT OF A 2019 CHEVROLET TAHOE AND ONE 2019 CHEVROLET SILVERADO 1500 FOR THE CITY OF SANTA FE FIRE DEPARTMENT IN THE AMOUNT OF \$77,377; MELLOY CHEVROLET IN LOS LUNAS.**

Approved on consent.

**E) REQUEST FOR APPROVAL OF TWO (2) 2019 CHEVROLET MALIBU**

**HYBRIDS AND THREE (3) 2019 CHEVROLET EQUINOX FOR THE CITY OF SANTA FE FIRE DEPARTMENT IN THE AMOUNT OF \$119,312; MELLOY CHEVROLET IN LOS LUNAS.**

Approved on consent.

- F) REQUEST FOR REVIEW AND APPROVAL OF COMMUNITY BLOCK GRANT 9CDBG) PROFESSIONAL SERVICES AGREEMENT AMENDMENTS. Jacqueline Beam**

Approved on consent.

- G) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT IN AN ADDITIONAL AMOUNT OF \$947,455.83 FOR PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES, INCREASING THE ORIGINAL CONTRACT SUM TO \$1,947,455.83; AND APPROVAL OF TASK ORDER NUMBERS 2018-1 THROUGH 2018-8; MOLZEN CORBIN & ASSOCIATES. Mark Baca**

Councilor Harris said he wanted to provide a bit of background. He spoke with Councilor Lindell before this session. Molzen Corbin has provided services to the Airport for around 25 years. When he first got involved at the Airport the former Airport Manager had gone out for RFP and had KSA Engineers on the job. They created a lot of problems for us with the FAA. We are talking tonight about Taxiway D. KSA had presented a design for that contrary to what FAA wanted and they rejected it and would not pay for the redesign. He got involved. Things went from bad to worse. We went out for RFP a year ago. We got 6 or 7 responses. It was very competitive. Molzen Corbin was selected. This is the first of a 4 year contract. Now we are going to be seeing a lot of projects that have been funded by FAA and the Aviation Division of NMDOT and other people's money. There is a lot of money here, but he wanted to give some historic background on how we got here. It is a doubling of the contract amount and it will go up from there.

Mr. Baca said he wanted to point out that we did pull \$1 million out of the hat for the 4 years based on funding from the past. We are very fortunate at the Airport and City receiving a phenomenal amount of money to improve infrastructure and the terminal. We received \$9.5 million from the Legislature this year and \$10 million is expected for next year. The Speaker of the House is interested in us not bandaiding and making the Airport functional. We got word two weeks ago that the Airport was awarded \$1.8 million to rebuild another taxiway in dire need. It is a lot of work, but is a blessing. We are up for the challenge and ready to move forward with the current projects listed. The parking lot, runways 1028 and 2533 and we are going to be using DFA money from 2017 as well. We were awarded \$850,000 from them and are going to use \$53,000

from that for the preliminary design work for the terminal. We will be looking at what the public wants and what the Governing Body wants from the \$9.5 million.

Councilor Rivera said he wanted to confirm what Councilor Harris said. When he was with the Fire Department we built a fire station at the Airport with Molzen Corbin. You have to understand how the FAA operates to get the funding. In the early 2000s we were getting several million a year. It is important to continue to have someone who understands how things work. They did pay for the entire fire station so we could bring in commercial flights. They are worth every penny.

Councilor Harris said thank you Councilor Rivera. Things were going south with FAA. They are back on the job and they have turned things around. During the budget hearing we approved a Project Administrator for the Airport specifically. We have deferred maintenance we are responsible for and hope to take care of that with a successful transaction with Wastewater. On page 21 of the packet is the schedule of all of their rates for the various trades and professionals providing services under this contract. When you look at the task orders they list the positions and posted rates. They have not increased the rates of the professionals who provide the services. Molzen Corbin is at every one of the Airport Advisory meetings. They always have time.

**MOTION** A motion was made by Councilor Harris, seconded by Councilor Rivera, to approve the request.

**VOTE** The motion passed unanimously by voice vote.

- H) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES CONTRACT WITH KONE, INC., TO INCREASE PURCHASE ORDER #18190968 BY \$13,000 IN ORDER TO PAY FOR INVOICES TIED TO UNFORSEEN SERVICE CALLS MADE THIS FISCAL YEAR DUE TO VANDALISM. Noel Correia**

Approved on consent.

- I) REQUEST FOR APPROVAL OF THE 2018 AUDIT AND CORRECTIVE ACTION PLAN; DEPARTMENT OF FINANCE ADMINISTRATION.**

Approved on consent.

- J) REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICE AGREEMENT IN THE TOTAL AMOUNT OF \$50,000 FOR CERTIFIED FOLDER DISPLAY SERVICE, INC. Randy Randall**

Approved on consent.

- K) REQUEST FOR APPROVAL OF AMENDMENT NO. 5 TO PROFESSIONAL SERVICES AGREEMENT IN THE TOTAL AMOUNT OF \$24,000 FOR FUN AND GAMES, INC. Randy Randall**

Approved on consent.

- L) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT IN THE TOTAL AMOUNT OF \$130,000 FOR LOU HAMMOND & ASSOCIATES. Randy Randall**

Approved on consent.

- M) REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT IN THE TOTAL AMOUNT OF \$150,000 FOR STUDIO X INC., TSF. Randy Randall**

Approved on consent.

- N) REQUEST FOR APPROVAL OF AMENDMENT NO. 5 TO PROFESSIONAL SERVICES AGREEMENT IN THE TOTAL AMOUNT OF \$67,750.31 FOR TRANE U.S. INC. Randy Randall**

Approved on consent.

- O) REQUEST FOR APPROVAL OF A RESOLUTION REPEALING RESOLUTIONS 2000-47, 2003-18 AND 2010-68, WHICH CREATED AND AMENDED THE SANTA FE REGIONAL JUVENILE JUSTICE BOARD. Julie Sanchez**

Postponed.

- P) REQUEST FOR APPROVAL OF A RESOLUTION ENDORSING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT'S FY2020 REGIONAL TRANSIT PLAN; FUNDING THE MOUNTAIN TRAIL 255 ROUTE; AND DIRECTING STAFF TO SUBMIT THE CITY'S REGIONAL TRANSIT PLAN FOR FY2020 TO THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT BOARD OF DIRECTORS FOR CONSIDERATION AND APPROVAL. Keith Wilson**

Approved on consent.

- Q) REQUEST FOR APPROVAL OF A RESOLUTION URGING CONGRESS TO CLARIFY THAT THE RIGHTS PROTECTED UNDER**

**THE UNITED STATES CONSTITUTION ARE THE RIGHTS OF HUMAN BEINGS AND NOT THE RIGHTS OF ARTIFICIAL ENTITIES AND THAT GOVERNMENTS MAY AND SHALL REGULATE CAMPAIGN CONTRIBUTIONS AND EXPENDITURES TO PROTECT THE PEOPLE FROM CORRUPTION AND UNDUE DISPROPORTIONATE INFLUENCE IN ELECTIONS AND GOVERNMENT; ASKING THAT CONGRESS PROPOSE A CONSTITUTIONAL AMENDMENT TO PROVIDE SUCH CLARIFICATION. Mayor Webber**

Approved on consent.

- R) REQUEST FOR APPROVAL OF AN ORDINANCE GRANTING TO PUBLIC SERVICE COMPANY OF NEW MEXICO ("PNM"), A NEW MEXICO CORPORATION, A FRANCHISE TO FURNISH ELECTRICITY WITHIN THE CITY OF SANTA FE, SANTA FE COUNTY, NEW MEXICO, AND GRANTING TO PNM THE RIGHT TO USE ANY PUBLIC HIGHWAY, STREET, ALLEY, ROAD, OR OTHER PUBLIC PLACE WITHIN THE PRESENT OR FUTURE MUNICIPAL LIMITS OF THE CITY OF SANTA FE. Mayor Webber**

Chair Abeyta asked to be added as a co-sponsor of the Ordinance.

Chair Abeyta said the amendment received at Public Works is a change to page 2, line 6. He passed out a marked up copy of the Ordinance.

The marked up copy of the Ordinance is attached herewith to these minutes as Exhibit "1".

Chair Abeyta said he has had discussions with representatives of PNM regarding the amendment. It removes the word plant. This is a general term regarding their infrastructure, not a plant itself. The word plant is used in our State statute. Consistency is important to them. We have added on page 1 "subject to provisions 5-1 of this Ordinance". On page 4 in that section it says as otherwise provided by State law. If indeed PNM wanted to come in and put in a plant we would refer them to this section of the ordinance that says they still have to comply with planning and zoning rules and regulations. Page 7 also says at any time the City or PNM may propose an amendment or addendum to the Ordinance if mutually agreed upon. This agreement could always be amended. The primary purpose is to implement a 3% increase consistent with what the Finance Committee and City Council adopted for the budget which adds to the City's annual revenue the amount of \$735,760. Other issues raised at Public Works were regarding information that Councilor Ives would like to have on outages and other issues. PNM has stated they have mechanism to provide the information Council Ives wants as needed. The City Manager provides a report on outages and why and how they are addressed. He will make those reports available to the Governing Body. There was

discussion about LED lights and a replacement plan. Approximately 2,100 or 40% of the City lights belong to PNM. The other 60% belong to the City. The Public Works Director is currently coordinating with PNM to replace the lights.

Chair Abeyta said he wanted to update the Finance Committee on the items that have taken place since the Public Works meeting.

Councilor Harris said thank you Mr. Chair. He voted no on the amendment at Public Works. It was a good discussion. Marcos Martinez provided a lot of information. So many issues were raised. He very much appreciated your research and the discussions you have had. He is having a discussion with PNM this week as well. He was not concerned with the language as written. This is standard language. He is prepared to move this forward without the amendment.

Councilor Harris asked were those all of the items raised Marcos.

Mr. Martinez said yes. The Chair raised all the issues except if PNM sells wholesale electricity and the amount of insurance. The answer to wholesale is yes they do sell wholesale and the insurance is consistent with that the City has now and should that become insufficient we would propose an amendment to match the statutory limits.

Chair Abeyta said we also are proposing to change the Ordinance on page 3 to have payments made to the City monthly. Payments would begin August 1<sup>st</sup> if that went into effect.

Councilor Romero-Wirth asked are we looking at LED lights with covers so the lights don't shine into the night sky and point down to the street.

Ms. Wheeler said yes. The lights will comply with the Night Sky requirements. There should also be an increase in better lighting in all lights.

Councilor Harris asked do they do that with a shield or just the lamp itself.

Ms. Wheeler said she is not sure of the technical details. She will find out and get that to you.

Councilor Rivera asked at the end of 15 years does this end or continue until something changes.

Mr. Martinez said it would continue to operate by law under the terms negotiated until they negotiated a new franchise so long as the City and PNM want to abide by the previously negotiated terms. Our current franchise experience was some time ago and we continue under the law.

Councilor Rivera asked did PNM answer all of Councilor Ives questions.

Mr. Martinez said he wants to touch base with Councilor Ives and will verify that.

**MOTION** A motion was made by Councilor Harris, seconded by Councilor Romero-Wirth, to approve the request without the amendment from Public Works and with the sections amended as requested by Chair Abeyta.

Councilor Lindell asked why do you want the word plant left in.

Councilor Harris said it is a generic term. The way Councilor Vigil Coppler imagined it was a generating facility and that is not going to happen. Chair Abeyta sited that anything they might propose would have to be consistent with zoning regulations. He sees it as a non issue.

**VOTE** The motion passed unanimously by voice vote.

**S) REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING  
SUBSECTION 6-10.2 SFCC 1987 REGARDING THE MEMBERSHIP  
AND TERMS OF THE CHILDREN AND YOUTH COMMISSION.  
Julie Sanchez**

Postponed.

**7. MATTERS FROM STAFF**

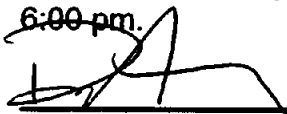
None.

**8. MATTERS FROM THE COMMITTEE**

None.

**9. ADJOURN**

There being no further business before the Committee the meeting adjourned at 6:00 pm.

  
\_\_\_\_\_  
Councilor Roman Abeyta, Chair

  
\_\_\_\_\_  
Elizabeth Martin, Stenographer

**City of Santa Fe Franchise Agreement**  
***Increase Estimates***

The City of Santa Fe's current Franchise Agreement is a 2% fee paid through PNM customers. The following includes the 3% revenue increase for the City and rate increase for PNM customers.

**City of Santa Fe Revenue Increase (Annual)**

<b>Rate Percentage</b>	<b>Revenue Total</b>	<b>Increase in City Revenue</b>
2% (current)	\$1,471,520	-
3%	\$2,207,280	\$735,760

*Maximum franchise fee is 3%*

**PNM Customer Rate Increase ( )**

<b>Rate Percentage</b>	<b>Annual Average Total Residential Bill (including tax)</b>	<b>Annual Increase in Fee/Customer</b>	<b>Monthly Increase in Fee/Customer</b>
2% (current)	\$861.69	-	-
3%	\$870.13	\$8.45	\$0.70*

*\*The increase on a monthly bill will vary (lower/higher) depending on the season. This calculation is an average number based on the Annual Increase.*

Exhibit "1"

underscored material = new  
[bracketed material] = delete

1                                   **CITY OF SANTA FE, NEW MEXICO**

2                                   **BILL NO. 2019-16**

3                                   **INTRODUCED BY:**

4  
5                                   Mayor Alan M. Webber

6  
7  
8  
9  
10                                  **AN ORDINANCE**

11       **GRANTING TO PUBLIC SERVICE COMPANY OF NEW MEXICO ("PNM"), A NEW**  
12       **MEXICO CORPORATION, A FRANCHISE TO FURNISH ELECTRICITY WITHIN**  
13       **THE CITY OF SANTA FE, SANTA FE COUNTY, NEW MEXICO, AND GRANTING TO**  
14       **PNM THE RIGHT TO USE ANY PUBLIC HIGHWAY, STREET, ALLEY, ROAD, OR**  
15       **OTHER PUBLIC PLACE WITHIN THE PRESENT OR FUTURE MUNICIPAL LIMITS**  
16       **OF THE CITY OF SANTA FE.**

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

19               **Section 1.       Short Title.**

20               This Ordinance shall be known and may be cited as the "PNM Electric Franchise  
21       Ordinance."

22               **Section 2.       Grant of Franchise**

23               **2-1       Grant of Franchise. Subject to the provisions of Section 5-1 of this Ordinance,**  
24       ~~The~~ City of Santa Fe, New Mexico (the "City"), a municipal corporation organized under the  
25       laws of New Mexico, hereby grants to PNM, its successors and assigns (collectively referred to as

1 "PNM"), the right and privilege to operate an electric utility and provide electric service within  
2 the municipal boundaries of the City, and to place, erect, lay, maintain and operate in, upon, over  
3 and under the streets, alleys, avenues, thoroughfares, and public highways, places and grounds  
4 within the City, as existing now and hereafter extended, dedicated, annexed, owned or controlled  
5 by the City, including the right to construct, install, remove, change, expand, alter, improve,  
6 operate and maintain electric plant, transmission and distribution system and facilities and all  
7 components thereof as may be necessary or reasonably convenient for the proper operation of  
8 such electric utility system.

9       **2-2 Franchise Not Exclusive.** The franchise rights and privileges extended by this  
10 grant shall never be construed or held to be exclusive. The City retains and shall ever be  
11 considered as having and retaining the right and power to allow and to grant to any other person,  
12 firm or corporation and other electrical companies, including the City itself, electric franchise  
13 rights and privileges to be exercised in and upon its streets, highways, alleys, roads and other  
14 public places.

15       **2-3 Jurisdiction of Public Regulation Commission.** The New Mexico Public  
16 Regulation Commission has the sole authority in New Mexico to grant a company the right to  
17 provide electric service. The rates to be charged by PNM for furnishing electricity shall be those  
18 rates effective by tariffs filed with the New Mexico Public Regulation Commission, as the same  
19 may be amended from time to time, in accordance with the rules and regulations of the New  
20 Mexico Public Regulation Commission and the Statutes of the State of New Mexico.

21       **Section 3.       Term.**

22       The rights, privileges, and franchise herein granted shall continue in full force and effect  
23 for the period of fifteen (15) years from and after the date this Ordinance becomes effective. This  
24 Ordinance shall be subject to any and all State and Federal legislative enactments.

25       **Section 4.       Franchise Fee.**

1           **4-1 Franchise Fee:** In consideration of the rights, privileges, and franchise hereby  
2 granted, PNM shall pay the City, from and after the date of the acceptance of this franchise,  
3 during January, April, July and October of each year during all the time these provisions shall  
4 remain in full force and effect, a total aggregate sum of an amount equal to three percent (3%) of  
5 the gross receipts which PNM receives from the sale of electricity within the municipal  
6 boundaries of the City as such boundaries exist as of the Effective date [or as later expanded by  
7 the City pursuant to applicable law, provided that in the event of such expansion, the City  
8 provides PNM with written notice specifying such boundary expansion pursuant to Section 8-3 of  
9 this Agreement] for the next preceding three (3) months' period to residential and commercial  
10 customers as classified by PNM's rate schedules. PNM shall make payments on a ~~quarterly~~  
11 monthly basis on or before the 30<sup>th</sup> day following the close of ~~each quarter~~ such month.

12           **4-2 Franchise Fee in Lieu of Other Taxes.** The franchise fee and payments made  
13 hereunder are and shall be in lieu of any and all other franchise, license, privilege, occupation,  
14 excise or revenue taxes upon the business, revenue or property of PNM, or any part thereof,  
15 situated In the City during the term of this franchise, provided that ad valorem property taxes and  
16 special assessments for local improvements as well as gross receipt taxes shall remain applicable.  
17 Without limiting the foregoing, the City does not waive the obligation of PNM to obtain all  
18 applicable permits and to comply with codes, ordinances, and regulations governing the  
19 operation, maintenance, and construction of its System.

20           **Section 5. Construction Activities.**

21           **5-1 Excavations.** PNM shall have the right to excavate any public highway, street,  
22 alley, avenue, thoroughfare, road, pavement, sidewalk and other public places and public rights-  
23 of-way now or hereafter dedicated, owned or controlled by the City within its municipal  
24 boundaries, as now existing or hercafter extended as necessary for the construction, operation,  
25 and maintenance of the electric utility system and the facilities and components associated

1 therewith.

2 Except as otherwise provided by state law or regulation, all construction activities of  
3 PNM within the municipal limits of the City shall be done in compliance with the then-applicable  
4 planning and zoning rules, regulations, ordinances, or orders of the City and any other agency  
5 having jurisdiction.

6 **5-2 Restoration.** There shall be no unreasonable delay in the backfilling of  
7 excavations by PNM under this Section 5, and all such excavations shall be restored by PNM in  
8 accordance with valid ordinances and regulations which may be adopted by the City to  
9 reasonably control and monitor such activities. If such ordinances and regulations are not adopted  
10 or effective, it shall then be the responsibility of PNM to restore such property, insofar as  
11 practicable, to the condition of such property immediately prior to the excavation.

12 **5-3 Relocation.** Any location or relocation of PNM's Facilities in the Public Rights-  
13 of-way reasonably required, caused, or occasioned by any City project, including without  
14 limitation, the installation of storm drainage, landscaping, traffic facilities, and road  
15 reconstruction, shall be at the cost of PNM. Nothing in the Ordinance shall be construed in any  
16 way to prevent the City from opening, grading, paving, repairing, altering, or improving any of  
17 the streets, alleys, avenues, thoroughfares, and public highways, and places and grounds within  
18 the City's public rights-of-way in which PNM has its facilities located. Prior to such activity and  
19 in the pre-design phase of any project, the City and PNM shall make a good faith effort to  
20 coordinate activities to avoid unnecessary cost for both parties. Except as otherwise provided by  
21 State regulation or law, PNM, at its expense, shall protect, support, temporarily disconnect,  
22 relocate, or remove along under or over any street, alley, or any other public place, PNM's  
23 equipment or facilities when notified in writing and reasonably required by the City for reasons of  
24 public safety, street or alley excavation, street or alley construction (including rerouting,  
25 improving and widening), or the change or establishment of street or alley grade.

1 Notwithstanding the foregoing, this provision shall not apply to any move, regrading, rerouting,  
2 improvement, or widening is undertaken for the benefit or convenience of or at the request of a  
3 third party, including a private developer or development or any other person who develops  
4 property within the City in a manner which necessitates such regrading, rerouting, improving or  
5 widening of any street, avenue, easement, right-of-way, alley, highway, sidewalk, bridge or other  
6 structure or public place or ground, or in a manner which necessitates such construction,  
7 reconstruction, removal, or relocation of traffic signal systems or utility systems owned or  
8 operated by or on behalf of the City. This section shall also be subject to any applicable State  
9 regulation or legislation affecting payment by a state or local public agency or body for certain  
10 relocation costs, or any other agreements with the City affecting relocation.

11 **5-4 No Interference with Other Authorized Uses.** PNM shall make a good faith  
12 effort in the conduction of its activities so as not to interfere with the activities of other  
13 franchisees. The City shall, in the grant of other franchises, require that said franchisees similarly  
14 conduct their activities to avoid interference with those of PNM.

15 **Section 6. Tree Trimming, Maintenance, and Moving of Aerials.**

16 **6-1 Tree Trimming and Obstructions.** PNM shall have the right and authority to  
17 trim or remove trees or parts of trees overhanging or within any public way and to remove any  
18 obstruction within any public way in order to eliminate or minimize interferences with its lines,  
19 system, plant, equipment, service, and facilities.

20 **6-2 Moving Aerials.** Whenever it becomes necessary to temporarily rearrange,  
21 remove, tower, or raise any of PNM's aerial cables, wires, or other apparatus of PNM to permit  
22 the passage of any building, machinery, or other object moved over the roads, streets, alleys,  
23 avenues, thoroughfares, and public highways within the City, PNM will rearrange such aerial  
24 cables, wires, or other apparatus within a reasonable period after receiving written notice from the  
25 owner or contractor-mover who desires that said building, machinery, or other objects be moved.

1 All such notices must include the written approval of the City, must set forth in detail the route of  
2 movement of the building, machinery, or object, must state that the costs incurred by PNM for  
3 such activities will be borne by the contractor-mover and that the contractor-mover will  
4 indemnify and save both the City and PNM harmless from any and all damages of claims of  
5 whatsoever kind or nature caused directly or indirectly by such activities and, if required by  
6 PNM, must include a cash deposit or a good and sufficient bond in an amount reasonably  
7 acceptable to PNM to pay any and all such costs as estimated by PNM.

8 **Section 7. Insurance and Indemnity.**

9 **7-1 Commercial General Liability Insurance.** Throughout the term of this  
10 Agreement, PNM shall, at its own cost and expense, maintain Commercial General Liability  
11 Insurance and provide the City certificates of insurance designating the City as an additional  
12 insured and demonstrating that PNM has obtained the insurance required. Such policy or policies  
13 shall be in the minimum amount of one million dollars (\$1,000,000.00) for bodily injury or death  
14 to any one person and one million dollars (\$1,000,000.00) for property damage resulting from  
15 any one accident.

16 **7-2 Worker's Compensation Insurance.** PNM shall maintain Worker's  
17 Compensation Insurance in such amounts as required by law.

18 **7-3 Indemnification.** PNM shall assume and pay for all judgments rendered against  
19 it for damages to persons or property resulting from the construction or cooperation of its electric  
20 business within the City, both present and as may be extended during the life of this PNM  
21 Electric Franchise Ordinance. PNM shall indemnify the City, its elected and appointed officers,  
22 employees, and agents, against all judgments against the City, its officers, agents, and employees,  
23 resulting from PNM's negligence in the construction, operation, maintenance, or removal of  
24 PNM's electric facilities with the City.

25 **Section 8. Miscellaneous Provisions.**

1           **8-1     Reservation of Rights.** By accepting this Ordinance, the City and PNM reserve  
2 all rights under federal law, state law, and regulation.

3           **8-2     Inspection of PNM's Books.** PNM shall make available to the City, upon ten  
4 (10) days written notice, such information directly pertinent to the payment of the franchise fees  
5 pursuant to the terms of this Ordinance, in such form as PNM can reasonably make available.  
6 Subject to New Mexico public records laws, PNM considers any such information that PNM  
7 provides to the City and/or that the City reviews in camera as confidential and proprietary and  
8 shall the information not be disclosed or used for any purpose, other than verifying and/or  
9 enforcing proper computation and payment of franchise fees in accordance with the terms of this  
10 Ordinance.

11           **8-3     Changes in City's Municipal Boundaries.** The City shall notify PNM in  
12 writing of any changes in the municipal boundaries of the City within thirty (30) days of any  
13 extension or contraction of such municipal boundaries becoming effective. Such notice shall be  
14 delivered to:

15                               Public Service Company of New Mexico

16                               Attn: Tax Department

17                               MS 1025

18                               414 Silver SW

19                               Albuquerque, NM 87102

20           The notice shall provide a description of the new and former municipal boundaries. PNM  
21 shall have no obligation to calculate, collect, or pay the franchise fee attributable to any newly  
22 extended municipal boundaries until thirty (30) days have elapsed from PNM's receipt of such  
23 notice.

24           **8-4     Amendment and Addendum.** At any time during the term of this Ordinance, the  
25 City or PNM may propose an amendment or addendum to the Ordinance by giving thirty (30)

1 days written notice to the other of the proposed amendment or addendum desired, and both shall  
2 negotiate in good faith in an effort to agree upon a mutually satisfactory amendment. Such  
3 amendment shall become effective upon adoption and passage of an amending Ordinance by the  
4 City in accordance with the requirements of local and state law.

5 **8-5 Notices.**

6 For the purpose of this ordinance, notice to the City will be to:

7 City of Santa Fe  
8 City Manager  
9 200 Lincoln Avenue  
10 Santa Fe, NM 87501

11 --

12 With a copy to:

13 City Attorney  
14 200 Lincoln Avenue  
15 Santa Fe, NM 87501

16 --

17 Notice to PNM will be to:

18 Public Service Company of New Mexico  
19 Attn: Tax Department  
20 MS 1025  
21 414 Silver SW  
22 Albuquerque, NM 87102

23 --

24 With a copy to:

25 PNM Resources Law Department

1 MS 0805

2 414 Silver SW

3 Albuquerque, NM 87102

4 Notice will be effective upon delivery at the above addresses until the City or PNM  
5 notifies the other, in writing, of a change in the address.

6 **8-6 Severability.** If any section, paragraph, sentence, clause, word, or phrase of this  
7 ordinance is for any reason held to be invalid or unenforceable by any court of competent  
8 jurisdiction, such decision shall not affect the validity of the remaining provisions of this  
9 ordinance. The Council hereby declares that it would have passed this ordinance and each  
10 section, paragraph, sentence, clause, word, or phrase thereof irrespective of any provision being  
11 declared unconstitutional or otherwise invalid.

12 **Section 9. Acceptance.**

13 **9-1 PNM to Accept.** PNM shall, within thirty (30) days after the passage and  
14 approval of this Ordinance, file in the office of the Clerk of the City of Santa Fe, New Mexico a  
15 written statement of acceptance duly signed and acknowledged by the proper officer of PNM  
16 authorized to execute such acceptance.

17 **9-2 Failure to Accept.** In the event such acceptance is not filed within said period,  
18 this Ordinance and the rights, privileges and franchise granted hereunder shall be terminated and  
19 void; provided, that the City may by resolution extend the time herein for the filing of such  
20 acceptance for an additional period.

21 **9-3 Supersedes Prior Franchise.** This Agreement, if accepted by PNM and  
22 hereinbefore provided, shall supersede, cancel, and be in lieu of any and all other existing or prior  
23 grants of rights, permission, and authority to PNM or any predecessor companies or assignors of  
24 PNM to construct, operate and maintain any system for the production, transmission, distribution  
25 and sale of electricity within the City.

1           **Section 10.     Effective Date.**

2           **10-1     Effective Date.** This Ordinance shall, subject to the provisions of Section 7  
3 herein, take effect 30 days after its adoption in accordance with statute, NMSA 1978, § 3-42-  
4 1(B).

5 APPROVED AS TO FORM:

6  
7 \_\_\_\_\_  
8 ERIN K. McSHERRY, CITY ATTORNEY

9 ACCEPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2019.

10 Public Service Company of New Mexico

11  
12 By: \_\_\_\_\_

13 Title: \_\_\_\_\_  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

