

**SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

This Settlement Agreement and Mutual Release ("Agreement") dated June 26, 2019 ("Effective Date") is made and entered into by and between the City of Santa Fe ("the City") and CCSF-599, LLC, a New Mexico limited liability company. The City and CCSF-599, LLC are individually referred to herein as "Party" and are collectively referred to herein as "the Parties."

**WHEREAS**, certain disputes have arisen between the Parties relating to a payment that CCSF-599, LLC, made to the City on September 8, 2008, in the amount of \$147,566.16.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the City and CCSF-599, LLC hereby agree as follows:

1. Refund by the City. The City shall refund the amount of \$147,566.16 to CCSF-599, LLC, plus interest from the date of collection, September 8, 2008, through the effective date of this Agreement, June 26, 2019, at the rate of two and a half percent (2.5%) per annum, for a total interest payment of \$39,873.84. If such aggregate amount of principal and interest is not paid by the City to CCSF-599, LLC on or before July 10, 2019, then the City shall pay interest on the refunded amount of \$147,566.16, at such rate, from such date of collection through the date of refund by the City.

2. Mutual Release. Except for compliance with this Agreement, upon the Effective Date each Party shall release, acquit, and forever discharge the other Party, and that Party's respective past and present members, officers, directors, agents, elected officials, attorneys, employees, shareholders, successors, predecessors, assignees, parents, subsidiaries, and affiliates from all known or unknown claims, demands, damages, liabilities, expenses, and causes of action of any nature whatsoever, which either Party has, or may have had, against the other Party, whether or not apparent or yet to be discovered, or which may hereafter develop, for any acts or omissions related to or arising from the payment in the amount of \$147,566.16.

3. Miscellaneous.

(a) Successors and assigns. The Parties intend that this Agreement be legally binding upon and shall inure to the benefit of each of them and their respective successors, assigns, executors, administrators, heirs, and estates.

(b) Entire Agreement. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous written or oral understandings, agreements, representations, and warranties with respect to such subject matter.

(c) Governing Law. The construction and performance of this Agreement will be governed by the laws of the State of New Mexico.

(d) Forum. The Parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court of the State of New Mexico.

(e) Severability. If any provision, term or condition of this Agreement is determined to be invalid, illegal, or unenforceable for any reason, the Parties agree to renegotiate in good faith the terms of this Agreement to maintain the intent of this Agreement and, if unable to do so, may at their discretion choose to ratify the remaining portions of the Agreement or reject the remaining portions of the Agreement.

(f) Counterparts. This Agreement may be executed in one or more original counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

(g) Headings. The headings in this Agreement are for convenience only and do not affect its interpretation.

(h) Necessary Authority. The Parties represent and warranty that this Agreement has been approved by all persons and authorities necessary to make this Agreement binding and enforceable.

(i) Amendment. No amendment or modification of this Agreement shall be binding unless in writing and signed by each of the Parties hereto.

(j) Admissions. Nothing in this Agreement shall constitute or be construed as an admission on behalf of any Party as to the validity of any allegations, claims, or defenses.

IN WITNESS HEREOF, the Parties have executed this Agreement as of:

DATE: 6/24/19

CCSF-599, LLC

By: B.S. Lin

Printed Name: Barry S. Kies

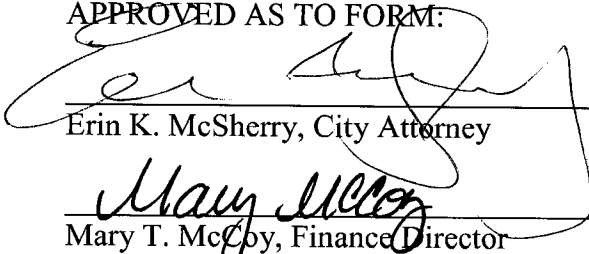
Title: President

DATE: 6/27/19


CITY OF SANTA FE

AMW  
Alan M. Webber, Mayor

APPROVED AS TO FORM:

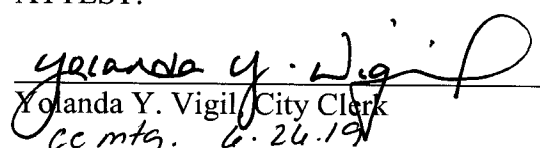


Erin K. McSherry, City Attorney



Mary T. McCoy, Finance Director

ATTEST:



Yolanda Y. Vigil, City Clerk  
cc mtg. 6.26.19