

**LEASE AGREEMENT
BETWEEN
THE CITY OF SANTA FE AND CAFÉ DES ARTISTES, LLC**

This LEASE AGREEMENT (“Lease Agreement”) is made and entered into as of the date of the last signature (“Effective Date”), by and between the CITY OF SANTA FE, a municipal corporation (“City” or “Lessor”) and CAFÉ DES ARTISTES, LLC, a New Mexico limited liability company (“Lessee”), collectively the “Parties”.

WHEREAS, as a result of the COVID-19 pandemic, increased outdoor seating at restaurants became a strategy for social distancing and economic survival; and

WHEREAS, as a result of the demand for alcohol service permits that included increased outdoor spaces, the New Mexico Regulation and Licensing Department, Alcoholic Beverage Control Division (“RLD/ABC”) began issuing temporary permits to restaurants that were scheduled to expire on October 31, 2021; and

WHEREAS, on June 24, 2020, the City also took steps to allow for the increased use of outdoor areas for alcohol service when it adopted Ordinance No. 2020-14, which permitted the use of any City sidewalk, street, right-of-way, or other special property for the sale and consumption of alcohol as a result of restrictions imposed to suppress the spread of COVID-19; and

WHEREAS, the permission extended under Ordinance No. 2020-14 to use City property for the sale of alcohol was set to expire on October 31, 2020, and, on October 14, 2020, the City adopted Ordinance No. 2020-28, which extended the permitted sales through October 31, 2021, in line with the RLD/ABC timeline; and

WHEREAS, the City also amended its ordinance to allow sales of alcohol on land that is leased for fewer than six-months, in addition to land leased for longer than six-months, with the goal that restaurants interested in continuing outdoor dining would negotiate leases with the City for either short-term, seasonal, or long-term use of the City’s property; and

WHEREAS, on October 26, 2021, RLD/ABC issued a six-month extension of licensees to serve alcohol in temporary outdoor patio expansions to April 30, 2022, and on March 28, 2022, RLD/ABC issued another six-month extension of licensees to serve alcohol in temporary outdoor patio expansions to October 31, 2022; and

WHEREAS, as of March 28, 2022, no leases have been negotiated to replace the short-term permits, but restaurants desire to continue their use of City property and to continue alcohol service; and

WHEREAS, to allow for the negotiation of leases, on November 10, 2021, the City approved Resolution 2021-64 extending the expiration date for the use of City sidewalks, streets, rights-of-way, or other specified property to the date when RLD/ABC ceases to permit licensees to serve alcohol in temporary outdoor patio expansions; and

WHEREAS, the City recognizes the popularity of the outdoor dining areas and the positive effect they have on the economic viability of local restaurants; and

WHEREAS, the City supports tourism and the Santa Fe restaurant industry and, through a lease agreement with local restaurants, may permit the continued use of some outdoor dining areas.

WITNESSETH:

In consideration of the Lessee's promises herein, Lessor hereby gives Lessee a Lease Agreement, revocable and terminable as hereinafter provided, to enter on, make use of, and develop the real property of Lessor as outdoor dining areas.

1. PREMISES

Lessor allows Lessee to use, occupy and develop, subject to the terms and conditions of this Lease Agreement, a certain parcel of land measuring 7.5'x21' in the City right-of-way on Lincoln Avenue, an area between the curb and sidewalk measuring 6.5'x21', and an area between the building front and sidewalk measuring 3'x21' (collectively the "Premises"), as shown on **Exhibit A** of this Lease Agreement. The total area of the Premises is 357 square feet.

Lessee accepts the Premises in its present state and agrees that it is in good condition, without any representation or warranty by Lessor as to the condition of the Premises. The Parties agree that the Lessor may reduce the size of the Premises to meet fire safety requirements as addressed in Section 4 (Use of Premises) below. The Parties also agree that the Premises may be restricted by Santa Fe Ordinance No. 12-5.2 as currently written (See **Exhibit B** for excerpt).

2. LEASE TERM

The term of this Lease Agreement shall commence at 12:00 a.m. on the Effective Date. The term of this Lease Agreement shall consist of an "Initial Term" of two (2) years with two (2) additional "Option Terms" of one (1) year each, for a total possible term of four (4) years.

Lessee's exercise of any Option Term is contingent upon compliance with this Lease Agreement and requires proper written notice by Lessee to Lessor at least ninety (90) days prior to the expiration of the Initial Term. Optional Terms may be accepted or denied at Lessor's sole discretion.

In the event Lessee remains in possession of the Premises after the expiration of the Term of this Lease Agreement, such possession may, at the sole option of Lessor, be continued as a month-to-month tenancy. During any such month-to-month tenancy, the Rent due shall be prorated and payable on a monthly basis, and the terms and conditions of the Lease Agreement shall be otherwise applicable.

At the termination of this Lease Agreement, Lessee shall surrender the Premises in the condition in which they were at the inception of this Lease Agreement, excepting:

- A. Deterioration caused through reasonable use and ordinary wear and tear;
- B. Alterations, improvements, or conditions made with Lessor's written approval;

3. **RENT**

A. **Base Rent.** Lessee shall pay Annual Base Rent in the amount of \$4,641.00 (\$13.00/sq.ft.). Monthly Rent of \$386.75 is due on the Effective Date and thereafter due in full on the first day of each month during the Term without notice or demand and without deduction or offset for any cause whatsoever. Lessee shall make payments to the Lessor's cashier office, Room 114, 200 Lincoln Ave., Santa Fe, NM.

B. **Optional Terms Rent.** Lessor, at Lessor's sole discretion, may adjust Base Rent based on the following:

- i. Loss of parking space meter income; or
- ii. Consumer Price Index, All Urban Consumers, U.S. Cities Average as published by the United States Department of Labor's Bureau of Labor Statistics.

4. **USE OF PREMISES**

A. **Conditions of Use.** Lessee shall use the Premises solely for the specific purpose of constructing and operating the outdoor dining area as an extension of the existing restaurant. Lessee must at all times have the Premises covered by insurance and included in its liquor license, if liquor is served.

B. **Improvement of the Premises.** Lessee may, with the prior written consent of Lessor and at no cost to Lessor, make improvements to the Premises. All improvements shall comply with the City of Santa Fe Land Development Code and applicable building code, which includes, but is not limited to the Historic Districts Code and requirements (See **Exhibit C** for excerpt), archeological clearance permits, Zoning, Building, Terrain Management and Accessibility regulations, and other applicable local, state, and federal regulations. In advance of its use by Lessee, the Premises shall be reviewed, inspected and approved by the City of Santa Fe Land Use Department, Historic Preservation Division, Inspections & Enforcement Division, Engineering Division, Fire Department and State Construction Industries Division (as applicable). Fire related requirements include, and are not limited to, the following:

- i. Improvements shall be constructed to allow unobstructed access thru or around the Premises to access adjacent structures.
- ii. Improvements, whenever possible, shall be made of fire retardant materials.
- iii. The street adjacent to the Premises must at all times maintain a 20'-26' wide fire apparatus access road, with the exact width required based on building height.

Lessee shall, upon Lessor's request, remove all such improvements made to the Premises at the termination of this Lease Agreement.

C. **Trade Fixtures.** All trade fixtures installed by Lessee after the Effective Date of this Lease Agreement shall remain the property of Lessee, who must remove the same upon termination of this Lease Agreement, provided that removal shall be accomplished in such a manner as not to injure or damage the Premises.

In the event that Lessee fails to remove said trade fixtures after receipt of notice from Lessor to do so, Lessor may remove and dispose of the same as it sees fit and Lessee agrees to sell, assign, transfer and set over to Lessor all of Lessee's right, title and interest in and to said trade fixtures and any personal property not removed by Lessee. Lessee further agrees that should Lessor remove said trade fixtures pursuant to this paragraph, Lessee shall pay Lessor for the cost of such removal and disposal, plus the cost of transportation and disposal thereof.

D. Repairs and Maintenance. Lessee shall not cause or permit any waste, damage or injury to the Premises or to any improvements made to the Premises. Lessee shall, at its sole expense, keep and maintain the Premises in good and clean condition at all times and shall be responsible for the costs of any and all required repairs, replacements, and capital improvements that arise during the Term of this Lease Agreement. Repairs and replacements required to be made by the Lessee shall be made promptly as and when necessary and shall be at least equal in quality of materials and workmanship to that originally existing in the Premises. The lessee shall maintain the landscaping and plants on the Premises.

Lessor reserves the right to inspect the Premises at any time during the Term of this Lease Agreement to verify Lessee's compliance with this Section 4.D. In the event Lessee fails to maintain the Premises at a standard acceptable to the Lessor, as determined in Lessor's sole discretion, Lessor may terminate this Lease Agreement in accordance with Section 11 herein.

E. Compliance with Laws. Lessee's use of the Premises shall at all times be in compliance with the City of Santa Fe Municipal Code and other applicable local, state, and federal regulations.

F. Impediment of Traffic. Lessee, and Lessee's operations, shall at no time impede pedestrian or vehicular traffic on sidewalks or public rights-of-way. Upon verbal or written notice by Lessor, or Lessor's employees or agents, Lessee shall immediately remove such impediments. In the event Lessee fails to remove impediments at a standard acceptable to Lessor, as determined in Lessor's sole discretion, Lessor may terminate this Lease Agreement immediately in accordance with Section 11 herein.

5. UTILITIES & SERVICES

Beginning on the Effective Date and until the termination of this Lease Agreement, the responsibility and costs for providing utilities and services to the Premises shall be the responsibility of Lessee.

6. TAXES

Lessee shall pay all taxes levied and assessed, if any, upon any personal property, fixtures and improvements belonging to Lessee and located upon the demised Premises, and all leasehold and possessory interest taxes levied or assessed by any proper taxing authority.

7. SUBLEASE, ASSIGNMENT OR TRANSFER

Lessee shall not sublet, assign or otherwise transfer this Lease Agreement, without the prior written consent of Lessor, which Lessor may withhold for any or no reason. Any such actions taken by Lessee shall immediately terminate this Lease Agreement.

8. INSURANCE

Lessee shall at all times maintain and provide adequate insurance coverage which includes, without limitation, each of the following:

A. **Property Insurance.** Lessee shall carry and maintain in full force and effect during the term of this Lease Agreement "Special Form" (aka All-Risks) property insurance for all improvements to the Premises in an amount sufficient to restore and replace existing structures and improvements if lost or damaged. Lessee shall cause the City of Santa Fe to be named as Loss Payee as their interests may appear on such policy of insurance.

B. **Commercial General Liability/Liquor Liability Insurance.** Lessee shall carry and maintain in full force and effect during the Term of this Lease Agreement, commercial general liability insurance which shall be written on an occurrence basis covering bodily injury and property damage, with an insurance company with an A.M. Best rating of not less than A-VII. Said policy shall have limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Said policy shall include coverage for Liquor Liability or such coverage may be maintained on a separate policy with limits not less than those specified above. Lessee shall cause the City of Santa Fe, its officials, officers, employees, and agents to be named as an additional insured on such policy(ies) of insurance.

C. **Workers' Compensation and Employer's Liability Insurance.** Lessee shall carry and maintain in full force and effect during the Term of this Lease Agreement, workers' compensation insurance at statutory limits for its employees working at the Premises. The workers' compensation policy shall be endorsed with a waiver of subrogation for the benefit of the City of Santa Fe.

D. **Certificates of Insurance.** Prior to the Effective Date of this Lease Agreement, and thereafter at any time during the Term of this Lease Agreement that Lessor requests, Lessee shall provide Lessor with certificates of insurance for each policy evidencing that the coverage required hereunder is current. No policy required to be maintained by Lessee hereunder shall be terminated, non-renewed or materially reduced in coverage without thirty (30) days prior written notice to the Lessor by Lessee.

E. **Primary and Noncontributory.** The insurance required to be maintained by Lessee shall be primary with respect to all claims, liabilities, and losses arising out of Lessee's use and occupancy of the Premises and any insurance or self-insurance maintained by the City shall be excess only, and not be required to contribute with it.

F. **Umbrella or Excess Insurance.** Any Umbrella or Excess insurance shall also apply on a primary and noncontributory basis for the benefit of the City, before the City's own primary insurance or self-insurance shall be called upon to protect it as a Named Insured.

G. **Broader Coverage and Limits.** The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Lessee hereunder.

H. **Severability of Interest (Cross Liability)**. A severability of interest provision must apply for the additional insureds, ensuring that Lessee's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the policies' limits.

9. **INDEMNIFICATION**

Lessee shall indemnify, hold harmless and defend Lessor from all losses, damages, claims or judgments, including payment of all attorney's fees and costs, on account of any suit, judgment, execution, claim, action or demand whatsoever arising from damages occurring on the Premises and Lessee's use of the Premises hereunder, including use of the Premises by Lessee's employees, agents, representatives, contractors, agents, guests, invitees or permitted assigns.

Lessee shall cause any and all agreements that Lessee enters into with any of the above parties to contain language indemnifying Lessor as provided in this Section.

10. **EASEMENTS**

Lessor reserves the exclusive right to grant access, utility or other easements on or through the Premises. Lessor shall notify Lessee in writing prior to Lessor's grant of any easement through the Premises.

11. **TERMINATION**

A. Lessor may terminate this Lease Agreement upon Lessee's failure to comply with any provisions contained herein. Prior to termination, Lessor shall hand deliver or mail notice to Lessee via certified or registered mail specifying:

- i. the breach;
- ii. the action required to cure the breach;
- iii. a date, not less than fifteen (15) days from the date the notice is hand delivered or mailed to Lessee, by which such breach must be cured; and
- iv. that failure to cure such breach on or before the date specified in the notice will result in termination of the Lease Agreement.

B. Lessee may terminate this Lease Agreement for any reason with written notice to Lessor at least thirty (30) days prior to the termination date.

C. **Impediment of Traffic.** In the event Lessee fails to remove impediments of traffic as provided for in Section 4 above, this Lease Agreement shall terminate immediately and Lessee shall immediately remove all improvements and trade fixtures and shall surrender the Premises in the condition in which they were at the inception of this Lease Agreement. In the event Lessee fails to remove impediments at a standard acceptable to Lessor, as determined in Lessor's sole discretion, Lessor may remove said improvements and trade fixtures and Lessee shall pay Lessor upon demand the cost of such removal, plus the cost of transportation and disposal thereof.

12. **NOTICE**

Any required notice will be deemed delivered, given and received (i) when personally hand delivered, or (ii) five days after the same are deposited in the United States mail, postage prepaid,

registered, addressed to the applicable party at the address indicated below for such party, or at such other address as may be designated by either party in a written notice to the other party:

To Lessor:
City Manager
City of Santa Fe
P.O. Box 909
Santa Fe, NM 87504

To Lessee:
Café des Artistes, LLC
Attn. Jean-Jacques Desalle
130 Lincoln Avenue, Suite B
Santa Fe, NM 87501

Copy to:
Asset Development Manager
City of Santa Fe
P.O. Box 909
Santa Fe, NM 87504

13. NO WAIVER

No waiver of a breach of any of the provisions contained in this Lease Agreement shall be construed to be a waiver of any succeeding breach of the same or any other provisions.

14. SEVERABILITY

In the event that one or more of the provisions contained in this Lease Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

15. ENTIRE AGREEMENT

The foregoing constitutes the entire Lease Agreement between the Parties, represents their entire understanding, and defines all of their respective rights, title, and interests as well as all of their duties, responsibilities and obligations. Any and all prior lease agreements and understandings between the Parties related to the Premises, if any, are merged herein. This Lease Agreement shall not be modified or amended except by a written document signed by the Parties.

16. BINDING EFFECT

This Lease Agreement shall be binding upon and insure to the benefit of the Parties hereto and their respective successors and permitted assigns.

17. LITIGATION EXPENSE

In the event of litigation between the Parties, Lessee shall pay any necessary costs, including reasonable attorney's fees, expenses and other costs of collection or otherwise, which Lessor shall incur in enforcing this Lease Agreement or in recovering any and all damages caused to the Premises by Lessee, or Lessee's contractors, agents, employees or permitted assigns.

18. HEADINGS

The section headings contained in this Lease Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Lease Agreement.

19. APPLICABLE LAW; VENUE

In any action, suit or legal dispute arising from this Lease Agreement, Lessee agrees that the laws of the State of New Mexico shall govern. The Parties agree that any action or suit arising from this Lease 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.

20. AMENDMENT

This Lease Agreement shall not be altered, changed or modified except by an amendment in writing executed by the Parties hereto.

21. SECURITY DEPOSIT

Lessee shall deposit with City, upon execution hereof, the Security Deposit of one month's rent as security for Lessee's faithful performance of its obligations under this Lease Agreement. If Lessee fails to pay Rent, or otherwise defaults under this Lease Agreement, City may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due City or to reimburse or compensate City for any liability, expense, loss or damage which City may suffer or incur by reason thereof. If City uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with City sufficient to restore said Security Deposit to the full amount required by this Lease Agreement. If the Base Rent increases during the term of this Lease Agreement, Lessee shall, upon written request from City, deposit additional monies with City so that the total amount of the Security Deposit shall always bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, City shall have the right to increase the Security Deposit to the extent necessary, in City's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease Agreement and following such change the financial condition of Lessee is, in City's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with City as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. City shall not be required to keep the Security Deposit separate from its general accounts. Within 30 days after the expiration or termination of this Lease Agreement, if City elects to apply the Security Deposit only to unpaid Rent, and otherwise within 60 days after the Premises have been vacated, City shall return that portion of the Security Deposit not used or applied by City. No part of the Security Deposit shall be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease Agreement

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[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of this
27 day of May, 2022.

**LESSOR:
CITY OF SANTA FE**

John Blair
John Blair (May 27, 2022 11:29 MDT)

JOHN BLAIR, CITY MANAGER

ATTEST:

Kristine Bustos Mihelcic

KRISTINE BUSTOS MIHELICIC, CITY CLERK XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 25, 2022 15:25 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED AT TO FINANCE:

Alexis Lotero
Alexis Lotero (May 26, 2022 16:49 MDT)

ALEXIS LOTERO, IINTERIM FINANCE DIRECTOR
Business Unit/Line Item 2122800.460350 _____ **AJH**

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EXHIBIT "A"

Premises is depicted in green

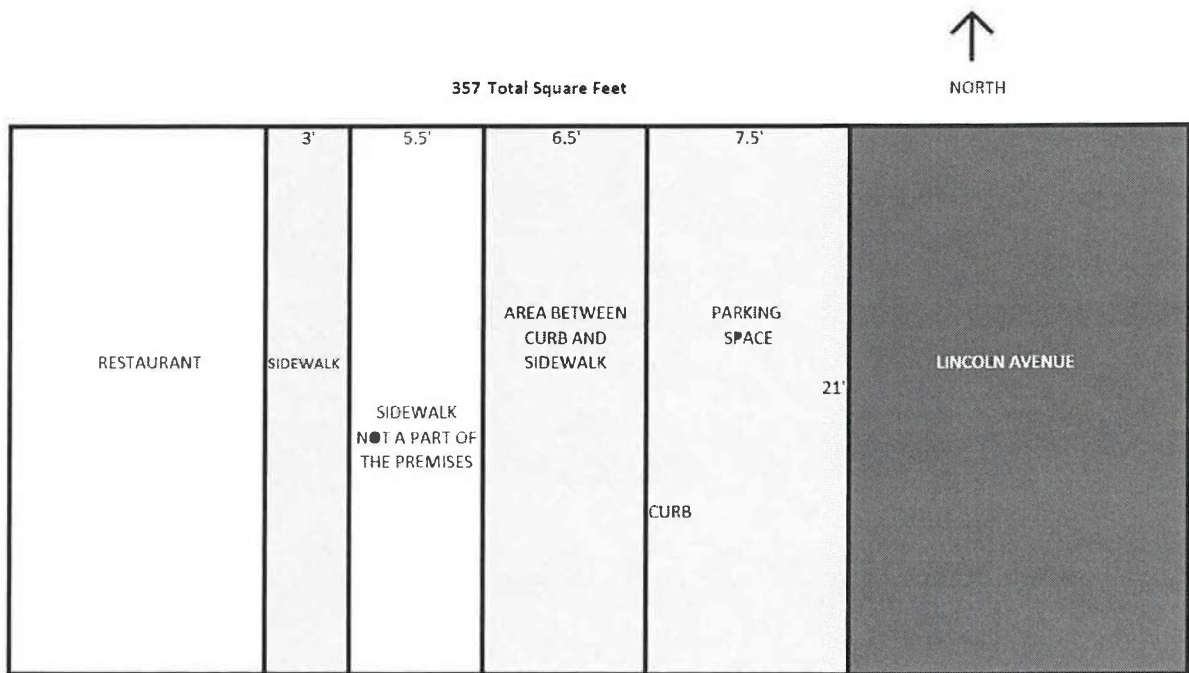


EXHIBIT “B”

MUNICIPAL CHARTER AND CODE OF ORDINANCES CITY OF SANTA FE, NEW MEXICO

https://library.municode.com/nm/santa_fe/codes/code_of_ordinances?nodeId=MUCHCOORSAFENEME

CHAPTER 23-5 - REGULATIONS FOR THE USE OF THE PLAZA AND PLAZA PARK - MAJOR COMMERCIAL EVENTS AND PLAZA ARTISTS/ARTISANS.

Intent. The Plaza and Plaza Park are the heart of the city. Its usage should be creative, evolving and non-institutionalized. Standards should encourage variety, equity in usage and regulations, and respect for the important role the Plaza and Plaza Park play in the life of Santa Fe.

(Ord. #1990-6, § 1; Ord. #1995-46, § 1)

23-5.2 Plaza uses; events; allowed uses.

- A. No more than eight (8) permits per calendar year shall be issued by the city for major commercial events held in the Plaza. The events permitted are as follows:
- (1) Challenge New Mexico Arts and Crafts Show;
 - (2) Fourth of July Pancake Breakfast;
 - (3) Spanish Market;
 - (4) Contemporary Hispanic Market;
 - (5) Santa Fe Girls' Inc. Arts and Crafts Show;
 - (6) Indian Market;
 - (7) Santa Fe Fiesta Labor Day Arts and Crafts Market; and
 - (8) Santa Fe Fiesta.
- B. Each of the major commercial events noted in paragraph A above shall continue their assigned locations, and the Contemporary Hispanic Market shall be allocated the space along Lincoln Avenue between Palace Avenue and Federal Place.
- (1) In order to accommodate the Spanish Market's growth requirements, this subsection will allow the Spanish Colonial Arts Society use of East San Francisco Street from Don Gasper to Cathedral Place and Palace Avenue from Grant Avenue to Cathedral Place. The Spanish Market will also extend thirty-three feet, six inches (33' 6") onto the east side of Lincoln Avenue. This will allow the Spanish Colonial Arts Society the similar configuration as the Southwest Indian Arts' annual Indian Market.
 - (2) This subsection will allow the Contemporary Hispanic Market use of Lincoln Avenue from Palace Avenue intersection starting at thirty-three feet six inches (33' 6") on the east side and twenty feet (20') from the fire hydrant on the west side all the way to Federal Place. This will allow the Contemporary Hispanic Market the ability to provide for their immediate and future growth needs. Depending upon the number of booths, as an alternative to using Lincoln Avenue between Marcy

Street and Federal Place, the city may require booths to be located on Marcy Street between Lincoln Avenue and Sheridan Street.

- C. Each of the major commercial events noted in paragraph A above shall submit a preliminary site plan for their event to city staff for their review and approval no less than three (3) months prior to the event. Adequate access for public health, safety and welfare shall be maintained. Access to existing businesses shall be considered. The city may require specific booth layouts. The city shall provide written comments to the event sponsor on the preliminary site plan within thirty (30) days of receipt of the plan. A final site plan shall be submitted to city staff no less than one (1) month prior to the event for their review and approval. City staff shall conduct inspections at the time of event setup.
- D. Community Days Festival may occur on the Plaza the Friday, Saturday and Sunday preceding the Memorial Day Weekend.
- E. No other event shall occur on the Plaza unless it qualifies as a noncommercial use. Sponsoring organizations shall comply with the fees as authorized in subsection 23-4.7 SFCC 1987 and established by resolution, unless the event is sponsored by the city.
- F. Except for the authority to issue Plaza Park artist/artisan licenses for sales activity on the Plaza Park pursuant to subsection 23-5.3 SFCC 1987, a permit or authority to use the Plaza Park shall be granted only to a nonprofit organization and not an organization for profit or an individual.
- G. The governing body shall, by resolution, authorize either a committee or city staff to receive, review and approve or deny requests for any function of a commercial or noncommercial use on the Plaza or Plaza Park.
- H. Applicants for use of the Plaza or Plaza Park shall follow and be subject to the procedures, requirements and restrictions adopted by the governing body.
- I. Any decision by the city manager or the city manager's designee may be appealed to the governing body within thirty (30) days of the decision. This provision does not apply to Plaza Park artist/artisan licenses that shall comply with subsection 23-5.3 SFCC 1987.
- J. The city shall appoint a staff liaison for all major commercial events or noncommercial uses on the Plaza to oversee the administration of city regulations as they apply to each event.
- K. Fees for the major commercial events shall be established by the governing body by adoption of a resolution. Fees shall not be waived.
- L. Sponsors of special events shall be responsible for ensuring that all participants in their event have special event vendor licenses. Special event sponsor license applications and special event vendor license applications shall include a statement signed by the applicant that the applicant agrees to file and pay applicable gross receipts taxes on receipts from the special event. Sponsors shall file with the city the informational material they distribute to the vendors regarding the vendor's responsibility to file and pay gross receipts taxes on their sales at the special event.

(Ord. #1981-39, § 16; Ord. #1982-10, § 3; SFCC 1981, § 4-17-15; Ord. #1987-50, § 2; Ord. #1990-6, § 3; Ord. #1995-46, § 3; Ord. #2000-20, § 1; Ord. #2002-41, § 6; Ord. #2007-48, § 3; Ord. #2008-24, § 1; Ord. #2015-13, § 6)

EXHIBIT “C”

SUGGESTED WALL AND FENCE GUIDELINES IN THE SANTA FE HISTORIC DISTRICT

Purpose and Intent: These guidelines are offered to promote continuity and harmony of design elements that comprise streetscape in the Santa Fe Historic Districts, including, but not limited to walls, fences, openspace and landscaping and their connectivity to the primary structure(s) on the property and the physical character of the street or public façade of the property.

SCALE:

Walls should not extend for more than 50 feet in a single, horizontal plane without a plane change of at least one-foot.

Wall heights should modulate a minimum of 8” at least every 25’.

Walls should include openings such as gates, windows and nichos at appropriate intervals.

Walls and fences of 4’ or less should not be regulated by the H-Dist. regulations. (This would encourage construction of lower privacy walls that still provide for a viewshed into the property.)

Wall heights should be carefully regulated by the HDRB standards as calculable for the particular streetscapes; and should be restricted so as not to increase the allowable height for the streetscape by more than 20%.

Solid fences should be stepped back and modulated the same as walls.

Fences with fenestration, such as coyote fences, may continue in an unrestricted horizontal distance at the same height and in the same horizontal plane.

SETBACK:

Unfenestrated walls and fences (eg. Cedar stake, ponderosa slat) should setback from the front property line an average of 1 foot for every 10 feet of horizontal length of the wall. This could be accomplished in a single plane or with stepbacks as outlined above.

Open fences (eg. Wire and post, picket) or fenestrated fences (eg. Coyote) may be constructed without setback at the front property line.

Walls with openings comprising 20% of the surface area of a single plane may be constructed at the property line.

Side or rear walls or fences may be constructed to the property line without setback as per existing City code.

Walls or fences within existing compounds should be restricted to privacy barriers to enclose courtyards, parking and private areas; and should be connected to and not extend more than 25' from the structure. This will help maintain the traditional character of existing compounds.

MATERIAL, TEXTURE AND COLOR:

Walls should be predominantly of the same material, texture and color as the main structure(s) to be located on the property, or may be of material indigenous or traditional for the area such as river rock, limestone, flagstone or slate.

Fences should be material, texture and color of fences typical of the existing streetscape or design vernacular if applicable to a particular H-District, subdistrict or townscape.

GATES:

Gates should be permitted only at entrances to private driveways or compounds.

Gating of subdivisions or other large-scale developments should be prohibited.

Gates should be designed to complement the wall or fence treatment containing them with respect to scale, height, material, texture and color. Fenestrated gates should be encouraged as opposed to solid gates.

LANDSCAPING (Suggested Options)

Walls and fences in excess of 50' in length should install landscaping along the exterior façade within the suggested setback or stepback.

Landscaping on top of or over a wall should be encouraged to increase the height of screening.

Terracing of walls is to be encouraged. The calculable height of the wall may be increased up to 25% if terracing is included in the design.

Terraces should be landscaped.

The use of native, drought resistant plant material is encouraged in all wall, fence or terrace landscaping.