

# MEMO

Date: April 28, 2025

To: Mark Scott, City Manager

From: Edward Vigil, Property Manager, Land Use Dept.



Subject: License Agreement for fence line encroachment at 190 Gonzales Rd

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Good morning Mark, attached hereto is the License Agreement between the City of Santa Fe (City) and Roxanne Eades Morgan is being routed to you for signature. This Agreement was requested by the property owner in order to place a new short fence line in the ROW in order to beautify the area and to cover an existing encroachment of a bldg portal onto a portion of the PROW contiguous to the westerly boundary of 190 Gonzales Rd which was covered by an agreement with the previous owners. The new agreement will consolidate the two uses and the fence line encroachment will be similar to the use the neighboring development was allowed by the City as the PROW in the area is very wide and the roadway is fully developed. The applicant has submitted the fees and insurance certificate which names the City as an additional named insured, please review and let me know if you have any questions please call/email me, thanks for your help on this and have a good day. 6226

**LICENSE AGREEMENT  
FOR ENCROACHMENTS ONTO CITY OWNED RIGHT OF WAY**

**THIS AGREEMENT**, by and between the **CITY OF SANTA FE**, a charter municipality organized under the laws of New Mexico (the “City”), and **ROXANNE EADES MORGAN** (the “Licensee”), whose address is 190 Gonzales Rd., Santa Fe, NM 87501, is made as of the date of the signature by the required approval authorities below, whichever occurs last (“Effective Date”).

**WITNESSETH:**

In consideration of Licensee’s promises herein, the City hereby gives the Licensee a License, revocable and terminable as hereinafter provided, to enter on the property of the City as follows:

1. **PREMISES.** Subject to all of the terms and conditions of this License, the City allows the Licensee to use and occupy those portions of the City-owned right-of-way of Gonzales Road adjacent and appurtenant to the structure at 190 Gonzales Road. The total area of both areas of encroachment consist of approximately 850 square feet (the “Premises”) for the existing encroachment of a building portal and proposed latilla fencing onto a separate portion of the Gonzales Road right-of-way, as shown and delineated on Exhibit “A” attached hereto and made a part hereof.

- a. The City agrees to allow the use of the right-of-way for the purpose of the existing area of encroachment of the building portal onto a portion of the Gonzales Road right-of-way and planned latilla fence structure within a separate portion of the Gonzales Road right-of-way. No other uses, by the Licensee, other than the right to use the right-of-way for access, plantings, and maintenance by Licensee or her agents on the right-of-way shall be allowed.
- b. No further encroachments shall be allowed in any manner, by Licensee, beyond those actions necessary to maintain the existing encroachments of the building portal and latilla fence structure within portions of the Gonzales Road right-of-way delineated on Exhibit A.
- c. Failure of the Licensee to restrict the use of the Premises as provided herein shall be deemed a substantial breach of this Agreement and shall constitute grounds for immediate termination by the City.

2. **TERM.** This License shall commence on the Effective Date and continue until this License is terminated as provided in Article 4 herein.

3. **PAYMENT.** For this License, the Licensee shall pay the City the sum of one hundred dollars (\$100), in addition to a development review fee of four hundred dollars (\$400), payable in advance upon execution of this Agreement.

4. **TERMINATION.** The City may, upon 30 days written notice, revoke this License, and the Licensee agrees, in that event, to peaceably and promptly surrender the Premises on the expiration date fixed in said notice, to remove all property placed on the Premises by Licensee and, if requested by the City, to remove from the Premises all its encroachments therefrom to its original undeveloped state. The Licensee may terminate this Agreement at any time upon 30 days written notice to the City. Upon termination of this License by either party, there shall be no refund of the license fee or any portion thereof.

5. **NO INTEREST CREATED.** The Licensee agrees that no interest or estate of any kind whatsoever in the Premises is conveyed by virtue of this License or occupancy or use hereunder, and no assignment of this License or any interest herein and no sub-license shall be made by the Licensee.

6. **INSURANCE.** The Licensee, at her own cost and expense, shall carry and maintain in full force and effect during the term of this License Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, including coverage, in a form and with an insurance company acceptable to the City with limits of not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City will be notified within 10 days of cancellation for any reason. The Licensee shall furnish the City with a copy of a "Certificate of Insurance" as a condition prior to issuing this Agreement.

7. **INDEMNIFICATION.** The Licensee shall indemnify, hold harmless and defend the City from all losses, damages, claims, or judgments, including payments of all attorneys' fees and costs on account of any lawsuit, judgment, execution, claim, action, or demand resulting from, arising out of, or incidental to the occupation or use of said Premises by the Licensee.

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

9. **RECORDING-SHORT FORM MEMO.** This License Agreement shall be recorded in its entirety with the Clerk of the County of Santa Fe, New Mexico.

10. **OBLIGATION OF LICENSEE.** The Licensee shall comply with the following conditions:

- a. This License is subject to the provisions of Santa Fe City Code ("SFCC") Section 14.8.4 and other applicable City Code requirements.
- b. The approval of this License does not constitute issuance of a building permit. Required permits shall be applied for from the City's Building Permit Division.
- c. Encroachments of the existing building portal onto a portion of the Gonzales Road right-of-way and new latilla fence structure within a separate portion of the Gonzales Road right-of-way shall be kept clean and maintained. Licensee will also maintain residual of right-of-way contiguous to Premises to ensure rights of use to others and aesthetics.
- d. This License is subject to superior rights of the City and public utility providers to existing utility apparatuses on, over, and under the Premises.
- e. Licensee shall not increase, modify, or replace building portal or latilla fencing without permits and prior consent from the City.

APPROVED THIS 23<sup>rd</sup> DAY OF May, 2025.

**CITY OF SANTA FE:**



MARK SCOTT, CITY MANAGER

ATTEST:



ANDREA SALAZAR, CITY CLERK



APPROVED AS TO FORM FOR LEGAL SUFFICIENCY:



ASSISTANT CITY ATTORNEY

APPROVED:

Emily Oster 4/29/25  
EMILY OSTER, FINANCE DIRECTOR

**LICENSEE:**

Roxanne Eades Morgan  
ROXANNE EADES MORGAN

ACKNOWLEDGMENT

STATE OF NEW MEXICO)

) SS.

COUNTY OF SANTA FE )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of March, 2025, by Roxanne Eades Morgan.

Commission Expires: May 3, 2026  
(Seal)

Anna M. Rivera  
Notary Public



