

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. C/S O-24-1 ENACTMENT NO. 0-2024-003

SPONSORED BY: Brook Bassan, by request

ORDINANCE

1
2 ADMINISTRATIVE DEMOLITION OF UNSAFE COMMERCIAL BUILDINGS,
3 UNSAFE ACCESSORY STRUCTURES, OR DWELLINGS UNFIT FOR HUMAN
4 HABITATION, ADOPTING A NEW ARTICLE IN CHAPTER 14, AND AMENDING
5 THE UNIFORM HOUSING CODE, CHAPTER 14, ARTICLE 3.

6 WHEREAS, the City Council finds that unsafe commercial buildings, and
7 dwellings unfit for lawful occupancy and/or human habitation, and any other
8 unsafe accessory structures are a safety hazard to occupants and to the
9 surrounding community; and

10 WHEREAS, the City Council finds that unsafe commercial buildings, and
11 dwellings unfit for lawful occupancy and/or human habitation, and any other
12 unsafe accessory structures, constitute an alluring and dangerous attractive
13 nuisance to the surrounding community; and

14 WHEREAS, the City Council finds that unsafe commercial buildings, and
15 dwellings unfit for lawful occupancy and/or human habitation, and any other
16 unsafe accessory structures are prone to illegal entry by trespassers and
17 arsonists; and

18 WHEREAS, the City Council finds that unsafe commercial buildings, and
19 dwellings unfit for lawful occupancy and/or human habitation, and any other
20 unsafe accessory structures can constitute a fire hazard; and

21 WHEREAS, the City Council finds that unsafe commercial buildings, and
22 dwellings unfit for lawful occupancy and/or human habitation, and any other
23 unsafe accessory structures are dangerous to first responders; and

24 WHEREAS, the City Council finds that unsafe buildings, and dwellings unfit
25 for lawful occupancy and/or human habitation, and any other unsafe
26 accessory structures create blight to the surrounding neighborhood; and

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1 **WHEREAS, the City Council finds that when property owners are either**
2 **absent, unidentifiable, or incapable, and unresponsive to a request to properly**
3 **maintain a property and then fail to make repairs to render a property safe, the**
4 **unsafe building or dwelling unfit for lawful occupancy and/or human**
5 **habitation or other unsafe accessory structure needs to be demolished by the**
6 **City to protect the health, safety and welfare of the public; and**

7 **WHEREAS, the City Council finds there is a need to demolish unsafe**
8 **commercial buildings, and dwellings unfit for lawful occupation and/or human**
9 **habitation, and any other unsafe accessory structures through an efficient and**
10 **effective administrative hearing procedure.**

11 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
12 **ALBUQUERQUE:**

13 **SECTION 1. A new article, Chapter 14, Article 23 of the Revised Ordinances**
14 **of Albuquerque is hereby enacted as follows:**

15 **Administrative Demolition of Unsafe Commercial Buildings, Unsafe Accessory**
16 **Structures, or Dwellings Unfit for Human Habitation.**

17 **§ 14-23-1. SHORT TITLE.**

18 **This article shall be known and may be cited as the “Administrative**
19 **Demolition Ordinance.”**

20 **§ 14-23-2. INTENT.**

21 **The purpose of this article is to allow for the administrative demolition of**
22 **unsafe commercial buildings, unsafe accessory structures, or dwellings unfit**
23 **for lawful occupancy and/or human habitation, due to dilapidation; defects**
24 **increasing the hazards of fire, accidents or other calamities; or other**
25 **conditions, rendering commercial buildings, accessory structures, or**
26 **dwellings unsafe and therefore dangerous or detrimental to the public health,**
27 **safety, morals or welfare of the residents of the City of Albuquerque.**

28 **§ 14-23-3. DEFINITIONS.**

29 **For the purpose of this article, certain terms, phrases, words and their**
30 **derivatives shall be construed as specific in either this article or as specified**
31 **in the Uniform Housing Code or the Uniform Administrative Code. Where**
32 **terms are not defined, they shall have their ordinary accepted meanings within**
33 **the context with which they are used.**

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1 ***Accessory structure.*** A structure detached from and located on the same lot
2 as a primary building, customarily used with and clearly incidental and
3 subordinate to the primary building or use. Accessory structures include but
4 are not limited to shade structures such as covered patios, sheds, work-
5 shops, detached garages, gazebos, pergolas, ramadas, or similar structures.

6 ***Commercial Building.*** A building or portion thereof not designed or not being
7 used for human habitation.

8 ***Department.*** The department tasked by the Mayor with the administration and
9 enforcement of this Ordinance.

10 ***Dwelling.*** One or more connected rooms and a kitchen designed to be
11 occupied by no more than one family for living and sleeping purposes,
12 meeting the requirements of the Uniform Housing Code and the Uniform
13 Administrative Code, as of the date of the unit's construction. This term
14 includes any structure being used as a dwelling unit, as defined herein, for
15 human habitation.

16 ***Unfit for lawful occupancy or human habitation.*** Any commercial building or
17 dwelling in which there exists any of the following conditions: structural
18 defects, dilapidation, defects or materials increasing the hazards of fire,
19 accidents or other calamities; or other conditions, rendering commercial
20 buildings or dwellings unsafe and therefore dangerous or detrimental to
21 public health, safety, morals or welfare of the residents of the City of
22 Albuquerque.

23 ***Unsafe building.*** Buildings or structures that are structurally inadequate or
24 compromised or which constitute a fire hazard, or are otherwise dangerous to
25 human life, pursuant to the Uniform Administrative Code and Technical
26 Codes.

27 **§ 14-23-4. PROCEDURES.**

28 (A) **Inspection.** The department may enter the premises with the consent of
29 the property owner or lawful occupant for the purpose of making safety
30 inspections, provided that the entry shall be made in a manner as to cause the
31 least possible inconvenience to property owner or the person in lawful
32 possession. If consent to enter is denied, the department shall obtain a
33 warrant from a court with jurisdiction.

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1 (B) Commencement of Proceedings. Whenever the department has
2 inspected or caused to be inspected any commercial building or any dwelling
3 or accessory structure and has found and determined that such commercial
4 building or accessory structure is unsafe or that such dwelling is unfit for
5 lawful occupancy and/or human habitation, the department shall commence
6 proceedings to cause the closing, demolition or removal of the building or
7 dwelling.

8 (1) Serving Notice. The department shall serve notice by personal service
9 or by registered mail to the owner of record on file with the county assessor,
10 every mortgagee of record, and all parties of interest of record. If the
11 whereabouts of these persons is unknown and cannot be ascertained by the
12 department in exercising reasonable diligence and the department makes an
13 affidavit to that effect, the serving of the notice upon said persons shall be
14 made by publishing the notice once a week for two consecutive weeks in a
15 newspaper printed and published in the City of Albuquerque. A copy of the
16 notice shall be posted in a conspicuous place on the property. A copy of the
17 notice shall be filed and recorded with the County Clerk. A recorded notice
18 shall have the same force and effect as other lis pendens notices provided by
19 law. The recorded notice runs with the property, and subsequent purchasers
20 or grantees shall be deemed notified through the recorded notice in existence
21 at time of conveyance. Subsequent purchasers or grantees acquire the
22 property at their own risk of the contemplated administrative action in the
23 recorded notice, and no further notice shall be due.

24 (2) Notice of Hearing. The Notice shall inform the parties of interest of the
25 hearing. The Notice shall contain the following statements:

26 (a) The street address and a legal description sufficient for identification
27 of the premises upon which the building or dwelling or accessory structure is
28 located.

29 (b) A statement that the department has found the dwelling to be unfit
30 for human habitation with a brief and concise description of the conditions
31 found to render the dwelling in need of immediate abatement or a statement
32 that the department has found the commercial building or accessory structure

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1 to be unsafe pursuant to the City of Albuquerque’s Uniform Administrative
2 Code and Technical Codes.

3 (c) A statement of the action required to be taken as determined by the
4 department, including whether the building or structure must be closed or
5 demolished.

6 (d) A statement that a hearing will be held by the Independent Hearing
7 Officer and shall be heard in accordance with the provisions in the
8 Independent Hearing Officer Ordinance, Chapter 2, Article 7, Part 8.

9 (e) A statement that the owner may file an appeal of the Independent
10 Hearing Officer’s order by filing an appeal in District Court, pursuant to NMSA
11 1978 § 39-3-1.1.

12 (C) Hearing.

13 (1) The hearing officer shall determine whether the commercial building
14 or accessory structure is unsafe or the dwelling is unfit for human habitation
15 and shall state findings of fact in support of the determination.

16 (2) A commercial building or accessory structure is unsafe and a
17 dwelling is unfit for human habitation if any of the following conditions exist:

18 (a) the commercial building or accessory structure or dwelling is
19 hazardous, dangerous or injurious to the health, safety, or morals of the
20 occupants and those who enter the premises;

21 (b) the commercial building or accessory structure or dwelling has a
22 blighting influence on properties in the area; or

23 (c) the commercial building or accessory structure or dwelling has
24 defects or combustible materials increasing the hazards of fire, accidents, or
25 other calamities; or has other poor conditions such as the lack of adequate
26 ventilation, light or sanitary facilities, dilapidation, disrepair, structural
27 defects, or any violation of health, fire, building regulations or any other laws
28 relating to the safe use and occupancy of buildings and improvements.

29 (3) A hearing shall be conducted by the Independent Hearing Officer in
30 accordance with the provisions in the IHO Ordinance, ROA 1994, Chapter 2,
31 Article 7, Part 8.

32 (4) The hearing shall be held not less than ten days and not more than
33 thirty days after serving the Notice.

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1 (5) If the hearing officer determines that the commercial building or
2 accessory structure is unsafe or that the dwelling under consideration is unfit
3 for human habitation, the hearing officer shall state in writing the following:
4 (a) findings of facts in support of the determination; and
5 (b) the premises must be vacated and secured at all times; and
6 (c) the owner shall be required to secure the property within 48 hours,
7 and then either repair and bring it into compliance with City codes to eliminate
8 the blighted condition or demolish the building or structure within ninety (90)
9 days, unless an extension is agreed to by the department.

10 (6) The hearing officer shall issue and serve an order that advises the
11 owner of the owner's right to file an appeal of the hearing officer's decision
12 with the City Council. The owner may file a written objection with the City
13 Clerk within ten (10) days of the receipt of the order, asking for a hearing
14 before the City Council. The City Clerk shall deliver the written objection to
15 City Council within fifteen (15) days of receiving the written objection. Such
16 appeal shall be heard after notice at the first available meeting of the City
17 Council. The City Council may affirm, reverse, or modify the decision of the
18 Independent Hearing Officer. Property owners aggrieved by the decision of
19 City Council can appeal to District Court, pursuant to NMSA 1978 § 39-3-1.1.

20 (D) Enforcement of Order.

21 (1) If the owner fails to comply with an order to secure the property and
22 then remove or demolish the commercial building or dwelling, the City may
23 cause the commercial building or dwelling to be removed or demolished;

24 (2) the amount of the cost of removal or demolition by the City shall be
25 filed as a lien against the property. If the commercial building or dwelling is
26 removed or demolished by the City, the City shall sell the salvageable
27 materials. The City shall credit the proceeds of such sale, if applicable, against
28 the cost of the removal or demolition. Any surplus balance remaining shall be
29 deposited in the District Court and shall be secured in the manner as directed
30 by the court and shall be disbursed by the court to the person found to be
31 entitled to any balance by an order or decree of the court.

32 (E) Civil Abatement Action. Nothing in this article shall be construed to
33 abrogate or impair the powers of the courts or of any department to enforce

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1 any other City ordinance to prevent or punish violations. The powers
2 conferred by this article shall be in addition to, and supplemental to, powers
3 conferred by any other law.

4 SECTION 2. § 14-3-5-3 of the Uniform Housing Code is hereby amended as
5 follows:

6 (A) *General.*

7 (1) Commencement of Proceedings. Whenever the department has
8 inspected or caused to be inspected any building and has found and
9 determined that such building is a substandard building, he shall commence
10 proceedings to cause the repair, rehabilitation, vacation, or securing of the
11 building.

12 SECTION 3. § 14-3-5-3(A)(2)(c) of the Uniform Housing Code is hereby
13 amended as follows:

14 3. If the department has determined that the building or structure
15 must be demolished, the order shall require that the building be vacated within
16 such time as the department shall determine reasonable, not to exceed 30
17 days from the effective date of the order; that all required permits be secured
18 therefore within 60 days from the date of the order, and that the demolition be
19 completed within such time as the department shall determine is reasonable.
20 Failure to comply with the order to demolish the building or structure within
21 such time as the department shall determine reasonable, not to exceed 30
22 days from the effective date of the order, will result in a Notice of
23 Administrative Demolition of Dwellings Unfit for Human Habitation pursuant to
24 ROA 1994, Chapter 14, Article 23.

25 SECTION 4. § 14-3-5-4 of the Uniform Housing Code is hereby amended as
26 follows:

27 (B) *Effect of Failure to Appeal.* Failure of any person to file an appeal in
28 accordance with the provisions herein shall constitute a waiver of their right to
29 an administrative hearing and adjudication of the notice and order or to any
30 portion thereof.

31 (C) *Scope of Hearing Appeal.* Only those matters or issues specifically
32 raised by the appellant shall be considered in the hearing of the appeal.

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1 (D) *Staying of Order Under Appeal*. Enforcement of any notice and order of
2 the department issued under this code shall be stayed during the pendency of
3 an appeal therefrom which is properly and timely filed.

4 SECTION 5. § 14-3-5-6(A)(3) of the Uniform Housing Code is hereby
5 amended as follows:

6 (c) The department may, in addition to any other remedy herein
7 provided cause the building to be repaired to the extent necessary to correct
8 the conditions which render the building substandard as set forth in the notice
9 and order.

10 (d) Whenever the Building and Safety Division of the Planning
11 Department determines that a substandard building is unsafe because it is
12 structurally inadequate or compromised or which constitute a fire hazard, or
13 are otherwise dangerous to human life, pursuant to the Uniform
14 Administrative Code and Technical Codes, the department shall commence
15 proceedings to cause the closing, demolition or removal of the building or
16 dwelling in the manner provided in the Administrative Demolition Ordinance,
17 Chapter 14, Article 23.

18 SECTION 6. § 14-3-5-12 of the Uniform Housing Code is hereby amended
19 as follows:

20 All buildings or portions thereof which are determined to be substandard
21 as defined in this code are hereby declared to be nuisances and shall be
22 abated by repair, rehabilitation, demolition, removal or securing all accessible
23 openings and entrances to building in accordance with the procedure as
24 provided herein.

25 Whenever the Building and Safety Division of the Planning Department
26 determines that a substandard building is unsafe because it is structurally
27 inadequate or compromised or which constitute a fire hazard, or are otherwise
28 dangerous to human life, pursuant to the Uniform Administrative Code and
29 Technical Codes, the department shall commence proceedings to cause the
30 closing, demolition or removal of the building or dwelling in the manner
31 provided in the Administrative Demolition Ordinance, Chapter 14, Article 23.

32 SECTION 7. The Planning Department shall track the race, ethnicity and
33 socioeconomic status of the property owners whose buildings are

1 demolished. The Planning Department shall provide a report to the City
2 Council twice a year. The report shall be provided to the City Council via an
3 Executive Communication.

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

11 SECTION 9. COMPILATION. Sections 1 through 6 of this Ordinance shall
12 amend, be incorporated in, and made part of the Revised Ordinances of
13 Albuquerque, New Mexico, 1994.

14 SECTION 10. EFFECTIVE DATE. This Ordinance shall take effect ten (10)
15 days after publication by title and general summary.

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1 PASSED AND ADOPTED THIS 4TH DAY OF March, 2024
2 BY A VOTE OF: 7 FOR 2 AGAINST.


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4 For: Baca, Bassan, Champine, Fiebelkorn, Grout, Lewis, Rogers
5 Against: Peña, Sanchez
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10 _____
11 Dan Lewis, President
12 City Council
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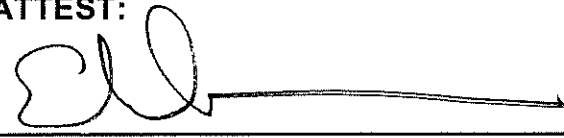
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15 APPROVED THIS 15 DAY OF March, 2024
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19 Bill No. C/S O-24-1
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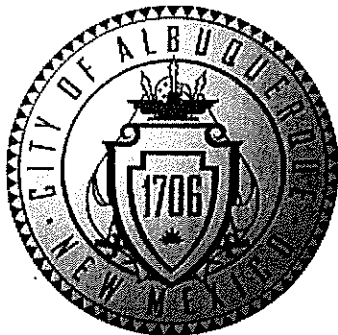
22 _____
23 Timothy M. Keller, Mayor
24 City of Albuquerque
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28 ATTEST:

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30 _____
31 Ethan Watson, City Clerk
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CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

December 1, 2023

TO: Patrick Davis, President, City Council

FROM: Timothy M. Keller, Mayor

A handwritten signature in black ink, appearing to be 'TK', is written over the name 'Timothy M. Keller'.

SUBJECT: Establishment of Procedures for the Administrative Demolition of Unsafe Commercial Buildings, Unsafe Accessory Structures, or Dwellings Unfit for Human Habitation Chapter 14, Article 23, and amending the Uniform Housing Code Chapter 14, Article 3.

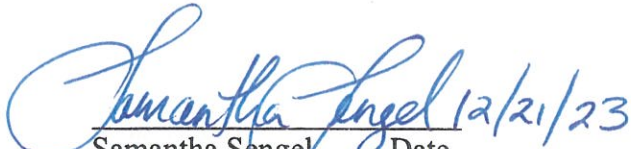
The enclosed document serves as a formal request to establish procedures for the Administrative Demolition of Unsafe Commercial Buildings, Unsafe Accessory Structures, or Dwellings Unfit for Human Habitation. The new article replaces the procedures outlined in the Uniform Housing Code ordinance that required a Resolution of Condemnation from City Council. The ordinance encompasses: (1) the definition of terms within the ordinance, (2) enforcement measures for non-compliant structures, (3) initiation of proceedings for serving notices, and (4) the establishment of hearing and administrative appeals processes.

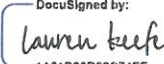
These proposed provisions are designed to enhance the City's capacity to enforce regulations and effectively address unsafe structures within the City of Albuquerque. I am submitting these amendments to the City Council for their careful consideration and subsequent action.

TITLE/SUBJECT OF LITIGATION*** *Same as subject line on last page)*

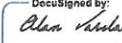
Approved:

Approved as to Legal Form:


Samantha Sengel Date
Chief Administrative Officer

DocuSigned by:
 12/7/2023 | 11:38 AM MST
1A21D96D32C74EE...
Lauren Keefe Date
City Attorney

Recommended:

DocuSigned by:
 12/4/2023 | 11:36 AM MST
0A7D8B65E5C443
Alan Varela Date
Director

Cover Analysis

1. What is it?

This legislation creates the Administrative Demolition of Unsafe Commercial Buildings, Unsafe Accessory Structures, or Dwellings Unfit for Human Habitation and it amends the Uniform Housing Code to remove the prior procedure that required a Resolution of Condemnation.

2. What will this piece of legislation do?

This legislation establishes administrative procedures and definitions for the Administrative Demolition of Unsafe Commercial Buildings, Unsafe Accessory Structures, or Dwellings Unfit for Human Habitation, while also making amendments to procedures within the Uniform Housing Code to remove the prior procedure that required a Resolution of Condemnation.

3. Why is this project needed?

This project is needed to address safety hazards posed by unsafe commercial buildings, unsafe accessory structures, dwellings unfit for lawful occupancy and/or human habitation, in the City of Albuquerque. The proposed ordinance establishes Chapter 14, Article 23, and amends Chapter 14, Article 3 of the Revised Ordinances of Albuquerque. The new ordinance contains the intent, definitions, and procedures for inspections, proceedings, notices, hearings, and enforcement actions by the Department. The legislation will ensure due process and more efficiently allow the City to eliminate unsafe conditions and, if necessary, demolish structures posing threats to public health, safety, morals, or welfare.

4. How much will it cost and what is the funding source?

No costs are anticipated from existing appropriations.

5. Is there a revenue source associated with this contract? If so, what level of income is projected?

There is no revenue source associated with this legislation.

6. What will happen if the project is not approved?

The City of Albuquerque will continue to face the growing challenges and risks associated with unsafe commercial buildings, dwellings unfit for lawful occupancy and/or human habitation, and other unsafe accessory structures. The absence of an efficient administrative process will result in a lack of streamlined procedures for addressing these safety hazards, and continue to result in prolonged periods of structures remaining in hazardous conditions. Without an authorized administrative hearing procedure, the City will continue to struggle to efficiently enforce the repair, vacation, or demolition of unsafe structures, leaving first responders, City staff, occupants, and the surrounding community at continued risk. The blight and dangers caused by such structures will persist, and

the City will find it increasingly challenging to protect public health, safety, morals, and welfare in a timely and effective manner.

- 7. Is this service already provided by another entity?**
No.

FISCAL IMPACT ANALYSIS

TITLE: Administrative Demolition of Unsafe Commercial Buildings, Unsafe Accessory Structures
 FUND: 110
 DEPT: 4910000

- No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	Fiscal Years			Total
	2024	2025	2026	
Base Salary/Wages	-	-	-	-
Fringe Benefits at Subtotal Personnel	-	-	-	-
Operating Expenses	-	-	-	-
Property	-	-	-	-
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ -	\$ -	\$ -
<input checked="" type="checkbox"/> Estimated revenues not affected				
<input type="checkbox"/> Estimated revenue impact				
Revenue from program	0	0	0	0
Amount of Grant	-	-	-	-
City Cash Match	0	0	0	0
City Inkind Match	0	0	0	0
City IDOH	-	-	-	-
Total Revenue	\$ -	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.
 * Range if not easily quantifiable.

Number of Positions created 0

COMMENTS:

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

There are no costs that are anticipated from existing appropriations.

PREPARED BY:

APPROVED:

DocuSigned by:
 Debbie Dombroski
 12/4/2023 | 11:19 AM MST
 Debbie Dombroski, Fiscal Manager

DocuSigned by:
 Alan Varela
 12/4/2023 | 11:36 AM MST
 Alan Varela, Director

REVIEWED BY:

DocuSigned by:
 Haiyan Bao
 12/4/2023 | 11:48 AM MST
 EXECUTIVE BUDGET ANALYST

DocuSigned by:
 Lawrence Vais
 12/7/2023 | 7:38 AM MST
 BUDGET OFFICER (date)

DocuSigned by:
 Christine Bomer
 12/7/2023 | 9:27 AM MST
 CITY ECONOMIST