UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOHN MARTIN, RHONDA BREWER, DAVID McCOY, MARY O'GRADY, and MARISSA ELYSE SANCHEZ

Plaintiffs,

v.

CITY OF ALBUQUERQUE,

Defendant.

Civil Action No. 18-cv-00031

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

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Plaintiffs John Martin, Rhonda Brewer, David McCoy, Mary O'Grady, and Marissa Elyse Sanchez submit this Motion for Preliminary Injunction against Defendant City of Albuquerque (the "City"). The City of Albuquerque opposes this motion.

INTRODUCTION

Plaintiffs have filed a lawsuit to challenge a new ordinance that the City designed and intended to reduce begging by the City's homeless. Albuquerque Code of Ordinances § 8-2-7-2 (the "Ordinance" or "Section 8-2-7-2"). While the City has attempted to justify the law with concerns about traffic safety, the law sweeps far more broadly than necessary to address any legitimate safety concerns. Instead, it prohibits *all* speech in significant portions of the City that constitute traditional public forums, and prohibits vehicle occupants and pedestrians from exchanging any physical objects (such as charitable donations or political leaflets) on any roadway within the City's 190 square miles, whatever the circumstances and no matter how safe. These blanket restrictions on expressive conduct in traditional public forums substantially and unjustifiably interfere with Plaintiffs' free speech rights. Plaintiffs, including homeless residents who depend on individual acts of charity by motorists for their basic necessities, are entitled to a preliminary injunction against the enforcement of the Ordinance for the following reasons.

First, Plaintiffs are likely to succeed on their claims that the Ordinance is unconstitutional under both the United States and New Mexico Constitutions. Courts look with skepticism on government regulations that diminish expressive conduct in traditional public forums, including public roadways, requiring that such regulations be narrowly crafted to their legitimate ends. Even if the City's stated goal of promoting public safety is genuine and significant in the abstract, the Ordinance does not advance the safety objectives proffered by the City, much less do so in a narrowly tailored way. The Ordinance proscribes all speech in a wide variety of

locations citywide in which expressive activities have historically, and safely, been exercised, and it prohibits anyone from providing or receiving donations or political literature on roadways throughout the City – classic forms of expression protected by the First Amendment. Moreover, it forbids these expressive activities even though no showing of legitimate safety concerns has been or could be made. The Ordinance does not provide the "close fit between ends and means" demanded by the Constitution. *McCullen v. Coakley*, 134 S. Ct. 2518, 2534 (2014).

Second, Plaintiffs will suffer irreparable harm absent injunctive relief. If the City is permitted to enforce the Ordinance, Plaintiffs will be faced with a dilemma. If they choose to engage in expressive conduct in the traditional public forums where their speech is now criminalized, they face fines, imprisonment, and arrest. Or, alternatively, Plaintiffs could choose to confine their speech to less effective locations in order to avoid arrest – a chilling effect that the United States and New Mexico Constitutions equally abhor. As the Supreme Court has explained, "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

Third, the balance of harms favors an injunction. Any interest the City has in enforcing this Ordinance is far outweighed by the irreparable injury Plaintiffs will sustain from the deprivation of their free speech rights. Indeed, "in First Amendment cases, the likelihood of success on the merits will often be the determinative factor" because of the importance of the interests at stake. *Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114, 1145 (10th Cir. 2013) (quotation marks omitted). While the City may contend that safety concerns deserve more weight on the scale, that competing interest is illusory here. Even without the Ordinance, existing laws, such as laws against the obstruction of traffic or reckless driving, already empower the City to address any public safety concerns without infringing on protected speech. In light of

such provisions, the Ordinance contributes nothing to public safety, but does substantial damage to speech-related interests. The balance of harms overwhelmingly favors the Plaintiffs.

Finally, the public interest also supports an injunction. Given the significant overbreadth of the Ordinance, an injunction will protect not only Plaintiffs' rights, but also the rights of others whose speech may be chilled. The continued use of roadways and medians for protected expressive activities unquestionably serves the public interest. The City's desire to declare those forums off-limits, which originated in a desire to drive the homeless out of high visibility locations in the City, does not.

FACTS

I. THE CHALLENGED ORDINANCE.

The Albuquerque City Council has been attempting to curb panhandling activities for years. In June 2004, the City adopted the "Safety in Public Places Ordinance," which placed more than two dozen broad restrictions on panhandling within City limits. Compl. ¶ 16. That ordinance was quickly enjoined when it was challenged by the ACLU, and the City replaced it with an ordinance that prohibited a much narrower set of conduct defined as "aggressive panhandling." Albuquerque Code of Ordinances § 12-2-28 (now repealed).

In November 2017, Councilor Jones sponsored a measure to "replace" the aggressive panhandling ordinance.[1] Around the same time, Councilor Jones spoke publicly regarding her opposition to panhandling. At a meeting with a homeless services center, for example, she told staff that panhandlers were "degrading our city" and that it was important to "take our streets back."[2] She also said that panhandlers were "very aggressive, and it's not safe."[3] Purportedly to

[1] *Twenty-Second Council – Forty-Fourth Meeting*, Albuquerque City Council (Nov. 6, 2017, 5:00 PM), http://bit.ly/2CGm0YS.

[2] Jeremy Reynolds, *Dire warnings from homeless about anti-panhandling proposal in ABQ*, NMPolitics.net, Sept. 4, 2017, http://bit.ly/2mgJqha.

address these safety concerns, she introduced the ordinance that became Section 8-2-7-2. As initially drafted, the Ordinance would have prohibited any person from standing on any street medians, and would have prohibited any person from standing on a sidewalk for the purpose of requesting a physical interaction with the occupants of a vehicle; it also would have prohibited any driver from stopping or remaining stopped in a traffic lane to interact with a pedestrian.[4]

After little public discussion or debate, a modified version of the Ordinance was adopted by the City Council by an 8-0 vote at its November 6, 2017, Council Meeting. Compl. ¶ 18. At that meeting, Councilor Jones introduced the Ordinance by saying it was being proposed "to conform with what the federal government wants as far as traffic safety" and "to fix" the "pretty high statistics" regarding safety at intersections in Albuquerque.[5] The next day, Councilor Dan Lewis expressly referred to the law as a panhandling law when he said at a mayoral debate, "We passed a great bill last night to strengthen our panhandling ordinance in Albuquerque."[6]

As adopted, the Ordinance, Albuquerque Code of Ordinances § 8-2-7-2, prohibits all expressive conduct in significant portions of the City, and prohibits vehicle occupants and pedestrians from exchanging charitable donations or political literature on any road in the City. *See* Santos Decl., Ex. A (signed Ordinance). The Ordinance contains three distinct prohibitions.

First, subsection 8-2-7-2(A) prohibits standing on any "street, highway, or controlled access roadway or the exit or entrance ramps thereto." The Traffic Code (in which the Ordinance was codified) defines "street" to be coterminous with "public way," which is broadly defined to include "every way publicly maintained" that is "open to the use of the public for

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[3] D'Val Westphal, *Roadside panhandlers stir controversy*, Albuquerque J., July 24, 2017, http://bit.ly/2ElVyEw.

[4] F/S Amending The Traffic Code And The Municipal Ordinance Relating To Pedestrian Safety And Vehicle/ Pedestrian Conflicts, No. O-17-51, http://bit.ly/2qIPvYC.

[5] *Twenty-Second Council – Forty-Fourth Meeting*, Albuquerque City Council (Nov. 6, 2017, 5:00 PM), http://bit.ly/2CGm0YS.

[6] Chris Ramirez, *Lewis, Keller face off in #ABQ4ward Mayoral Debate*, Nov. 10, 2017, http://bit.ly/2CVGaSK.

purposes of vehicular *or pedestrian* travel," including "publicly owned parking lots" and any "public grounds . . . that are open to the use of the public." Albuquerque Code of Ordinances § 8-1-1-2 (emphasis added). Thus, this subsection bans any person from standing on any publicly owned or operated land even if it is *intended for pedestrians* – including not only roads, but also sidewalks, public parks, pedestrian paths, and parking lots.

Second, subsections 8-2-7-2(B) and (C) prohibit accessing, using, occupying, congregating, or assembling in a wide variety of locations:

- Within 6 feet of a travel lane of the exit or entrance ramp of a highway or other controlled access roadway;
- Within the landscaped area of any street median;
- Within any median "not suitable for pedestrian use," which is defined to include any median that is narrower than six feet in width, any median located within 25 feet of any "roadway designated as a Minor Arterial or greater intensity by the Albuquerque Major Thoroughfare Plan," and any median otherwise determined by the City Traffic Engineer to be "not suitable for pedestrian use."

Because many medians in Albuquerque are narrower than six feet (or are landscaped), and the most common areas for soliciting donations or staging political demonstrations are at stoplights next to well-traveled roads (including freeway ramps), these subsections cut off all expressive activity in the most effective locations for engaging in that expressive conduct. Compl. ¶ 33.

Third, subsections 8-2-7-2(D) and (E) prohibit pedestrians and occupants of a vehicle located in any travel lane within the City from engaging in an "physical interaction or exchange." In other words, the Ordinance prohibits anyone from exchanging donations or political literature with vehicle occupants on any street within Albuquerque's nearly 190 square miles.

A violation of the Ordinance is a petty criminal misdemeanor and is punishable "by a fine of not more than $500 or by imprisonment for not more than 90 days or by both such fine and imprisonment." Albuquerque Code of Ordinances § 8-1-3-99.

According to its preamble, the Ordinance was adopted in response to pedestrian safety concerns after the City Council received (i) statistics from the National Highway Traffic Safety Administration that identified New Mexico as one of the States with the highest rates of pedestrian fatalities, and (ii) a report by the University of New Mexico commissioned by the City to study the occurrences and possible causes of pedestrian- and bicyclist-involved crashes ("UNM Study"). Santos Decl., Ex. A (signed Ordinance); Santos Decl., Ex. B (UNM Study). The UNM Study focuses on ten intersections with high numbers of pedestrian- and bicyclist-involved crashes, and it identifies "contributing factors" that accounted for crashes at those intersections, including "Pedestrian Error," "Poor Driving," "Alcohol-Drug" involvement, and "Mechanical Defect." Santos Decl., Ex. B, at 23. It also makes numerous recommendations for improving pedestrian safety at those specific intersections. *Id.* at 50-51. The Study does not identify any crashes that were caused by soliciting or providing donations to panhandlers, and none of its recommendations includes banning expressive conduct – whether panhandling or otherwise – anywhere in the City.

II. THE PLAINTIFFS.

Plaintiffs are individuals who regularly engage in protected speech on City medians and along City roadways. John Martin is also a resident of Albuquerque who, until recently, solicited donations from motorists near a freeway off-ramp in the City and offered water to the individuals he solicited. Martin Decl. ¶¶ 3-5. At the same time, he would display a sign asking motorists for donations for his housing, food, and basic living expenses. *Id.* ¶¶ 4-5. Mr. Martin used to be homeless, but thanks to the donations he received from city motorists, he was able to provide stable accommodations for himself and his wife. *Id.* ¶¶ 3-4. Mr. Martin stopped handing out water bottles or soliciting donations after a recent arrest under Section 8-2-7-2's predecessor ordinance; he has found it hard to make ends meet since then. *Id.* ¶¶10-12.

Rhonda Brewer is a resident of Albuquerque who has been homeless since 2015. Brewer Decl. ¶ 5. Since then, she has stayed in motels, homeless shelters, and in a tent on the street. *Id.* Ms. Brewer receives some income from SSI and tries to find temporary work when possible, but she relies on donations for everyday needs, such as food, shoes, clothing, and toiletries. *Id.* ¶¶ 6-7. Ms. Brewer solicits donations only from motorists who are stopped at a red light, and she does so by holding a sign that says, "Work is slow, anything will help." *Id.* ¶¶ 7, 9-10.

Mary O'Grady and David McCoy are residents of Albuquerque who regularly make donations while stopped at red lights by handing items to panhandlers from their car windows. O'Grady Decl. ¶¶ 4-6; McCoy Decl. ¶¶ 4-6. Ms. O'Grady and Mr. McCoy donate a variety of items, such as money, water, string cheese, protein or candy bars, or toiletry items, including shampoo, disposable razors, and wash cloths. O'Grady Decl. ¶ 5; McCoy Decl. ¶ 5. When Ms. O'Grady donates, she also tries to have a brief conversation with the person to whom she is donating if time and safety permit. O'Grady Decl. ¶ 7. Though Ms. O'Grady has a master's degree and is now a semi-retired writer and journalist, she experienced homelessness as a teenager. *Id.* ¶¶ 2-3. When she donates to panhandlers, she likes to recount her own experience and share her hope that circumstances will improve for the recipient of her donation. *Id.* ¶ 7.

Marissa Elyse Sanchez is a resident of Albuquerque who is extensively involved in political activism through an organization known as ANSWER (short for Act Now to Stop War and End Racism). Sanchez Decl. ¶ 3. Through that organization, Ms. Sanchez engages in political demonstrations around the City numerous times per year. *Id.* At those demonstrations – which typically take place on street corners or in medians near heavily trafficked intersections – Ms. Sanchez holds political signs, delivers political statements through a megaphone, or distributes flyers and articles intended to educate passing drivers and pedestrians about the

organization's causes or upcoming events. *Id.* ¶¶ 4-5.

Plaintiffs' expressive conduct takes place in locations that will be directly affected by the Ordinance. Mr. Martin solicited donations from the side of the roadway next to a freeway off-ramp. Martin Decl. ¶ 5. Ms. Brewer typically solicits donations from medians that are narrower than six feet wide, or from the side of the roadway at stoplights next to entrance or exit ramps. Brewer Decl. ¶ 9. Ms. O'Grady and Mr. McCoy donate to panhandlers who are standing on medians or at the side of the roadway next to entrance and exit ramps. O'Grady Decl. ¶ 4; McCoy Decl. ¶ 4. And Ms. Sanchez engages in protests and demonstrations on medians and sidewalks next to well-traveled roadways. Sanchez Decl. ¶ 4. Though all of the Plaintiffs have regularly engaged in this type of protected speech for many years – Mr. Martin three to five times per week, Ms. Brewer one to three times per week, Mr. McCoy several times per week, Ms. O'Grady several times per day, and Ms. Sanchez numerous times per year, collectively totaling thousands of roadside interactions – none of them has ever observed any type of accident or injury involving a panhandler or (as the case may be) at the roadside or on a median. Martin Decl. 5, 7; Brewer Decl. ¶¶ 8, 11; O'Grady Decl. ¶¶ 8, 11; McCoy Decl. ¶¶ 5, 7; Sanchez Decl. ¶¶ 3, 7. Since the Ordinance was adopted, Plaintiffs have observed a marked decrease in the number of individuals soliciting donations at stoplights. Brewer Decl. ¶ 17; O'Grady Decl. ¶ 12; McCoy Decl. ¶ 11.

ARGUMENT

In determining whether to grant preliminary injunctive relief, the Court must consider four factors: (1) the moving party's "likelihood of success on the merits;" (2) the "likelihood that the moving party will suffer irreparable harm if the injunction is not granted;" (3) whether "the balance of equities is in the moving party's favor;" and (4) whether "the preliminary

injunction is in the public interest." *Republican Party of N.M. v. King*, 741 F.3d 1089, 1092 (10th Cir. 2013). In the First Amendment context, "the likelihood of success on the merits will often be the determinative factor" because of the importance of the interests at stake. *Hobby Lobby Stores*, 723 F.3d at 1145 (citation omitted). All of these factors weigh in favor of a preliminary injunction here.

I. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS BECAUSE THE ORDINANCE VIOLATES THE FIRST AMENDMENT.

Freedom of speech is a "fundamental personal right[] and libert[y]." *Schneider v. New Jersey*, 308 U.S. 147, 161 (1939). Governmental regulations of that freedom therefore must be drawn with "[p]recision." *United States v. Robel*, 389 U.S. 258, 265 (1967) (quoting *NAACP v. Button*, 371 U.S. 415, 438 (1963)). Thus, "when statutes regulate or proscribe speech . . . the transcendent value to all society of constitutionally protected expression is deemed to justify allowing 'attacks on overly broad statutes with no requirement that the person making the attack demonstrate that his own conduct could not be regulated by a statute drawn with the requisite narrow specificity.'" *Gooding v. Wilson*, 405 U.S. 518, 520-21 (1972) (quoting *Dombrowski v. Pfister*, 380 U.S. 479, 491 (1965)). Here, each of the three distinct prohibitions in the challenged Ordinance is an unconstitutionally overbroad restriction on speech.[7]

A. Plaintiffs' Expressive Conduct Is Protected Under The First Amendment

The plaintiffs in this litigation engage in two main forms of speech: political activism (in the case of Ms. Sanchez) and soliciting or receiving charitable donations (in the case of Mr.

[7] Article II, § 17 of the Constitution of the State of New Mexico provides *greater* protection with respect to content-based restrictions than the First Amendment to the U.S. Constitution, and equivalent protection with respect to content-neutral restrictions. *State v. Garcia*, 294 P.3d 1256, 1262 (N.M. Ct. App. 2013). Thus, because the ordinance fails to meet First Amendment standards, it necessarily fails to satisfy the analogous protections enshrined in the Constitution of the State of New Mexico.

Martin, Ms. Brewer, Mr. McCoy, and Ms. O'Grady). Both forms of speech fall squarely within the First Amendment's protections.

There can be no doubt that Ms. Sanchez's expressive conduct – holding political signs, delivering political messages through a megaphone, and distributing flyers and articles to educate the public – is protected under the First Amendment. Indeed, "political demonstrations and protests" lie at the very "heart of what the Bill of Rights was designed to safeguard." *Jones v. Parmley*, 465 F.3d 46, 56 (2d Cir. 2006). As the Supreme Court has explained, "handing out leaflets in the advocacy of a politically controversial viewpoint . . . is the essence of First Amendment expression." *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 347 (1995).

It is equally well-established that solicitation, panhandling, and begging are constitutionally protected forms of speech. In *Village of Schaumburg v. Citizens for a Better Environment*, the Supreme Court struck down an ordinance that prohibited solicitation by certain organizations, holding that "charitable appeals for funds, on the street or door to door, involve a variety of speech interests – communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes – that are within the protection of the First Amendment." 444 U.S. 620, 632 (1980).

Courts across the country have held that begging and panhandling, whether "characterized as speech or expressive conduct," fall squarely within the speech protections afforded by the First Amendment. *Blitch v. City of Slidell*, 260 F. Supp. 3d 656, 667 (E.D. La. 2017); *McLaughlin v. City of Lowell*, 140 F. Supp. 3d 177, 184 (D. Mass. 2015) ("Panhandling is an expressive act regardless of what words, if any, a panhandler speaks."). This is because restrictions on panhandling suppress "the right to engage fellow human beings with the hope of

receiving aid and compassion." *Benefit v. City of Cambridge*, 424 Mass. 918, 926 (1997). As the Second Circuit has recognized:

> Begging frequently is accompanied by speech indicating the need for food, shelter, clothing, medical care or transportation. Even without particularized speech, however, the presence of an unkempt and disheveled person holding out his or her hand or a cup to receive a donation itself conveys a message of need for support or assistance.

Loper v. New York City Police Dep't, 999 F.2d 699, 704 (2d Cir. 1993);

These First Amendment protections are not limited to asking for assistance; they also encompass giving donations to others. *Cf. Buckley v. Valeo*, 424 U.S. 1, 21 (1976) (noting that "[a campaign] contribution serves as a general expression of support"); *Nixon v. Shrink Mo. Gov't PAC*, 528 U.S. 377, 400 (2000) ("[A] decision to contribute money to a campaign is a matter of First Amendment concern . . . .") (Breyer, J., concurring). And the "physical exchange of money" that is part of soliciting and providing donations is equally protected because "it is 'intertwined' with speech that the First Amendment protects." *Speet v. Schuette*, 726 F.3d 867, 876 (6th Cir. 2013); *see also Petrello v. City of Manchester*, 2017 WL 3972477, at *18 (D.N.H. Sept. 7, 2017) ("[T]he physical exchange of money," which "is an integral component and the ultimate purpose of panhandling . . . is entitled to First Amendment protection").

Accordingly, courts throughout the United States have held that restrictions on panhandling or leafletting are unconstitutional. *See, e.g.*, *Petrello*, 2017 WL 3972477, at *16 (ordinance banning receiving an item from a vehicle occupant); *Cutting v. City of Portland*, 802 F.3d 79 (1st Cir. 2015) (in action brought by political activists and the homeless, striking down ordinance banning standing on medians); *Thayer v. City of Worcester*, 144 F. Supp. 3d 218 (D. Mass. 2015) (same, with respect to ordinance banning standing or walking on medians or roadways); *Traditionalist Am. Knights of the Ku Klux Klan v. City of Deslodge*, 914 F. Supp. 2d

1041 (E.D. Mo. 2012) (ordinance banning soliciting on streets and public ways).

B. The City Has The Burden Of Demonstrating That The Ordinance Does Not Burden Substantially More Speech Than Is Necessary To Further Legitimate Government Interests.

The Ordinance contains broad prohibitions on expressive conduct in streets, medians, and other public grounds specifically intended for pedestrian travel – public ways that have long been recognized as "quintessential public forums." *Perry Educ. Ass'n v. Perry Local Educators Ass'n*, 460 U.S. 37, 45 (1983) ("[S]treets . . . have immemorially been held in trust for the use of the public" (citation omitted)); *Cutting*, 802 F.3d at 81 (collecting cases holding that medians are traditional public forums). "[T]he government's ability to restrict speech in such locations is 'very limited.'" *McCullen v. Coakley*, 134 S. Ct. 2518, 2529 (2014) (citation omitted)). Indeed, Albuquerque's own Code of Ordinances expressly acknowledges this: the City's Free Expression and Parade Ordinance defines "Traditional Public Forum" as "[p]ublic places historically associated with the free exercise of expressive activities *including but not limited to streets*, sidewalks and parks." Albuquerque Code of Ordinances § 7-3-3 (emphasis added).

Within such forums, "the government may not prohibit all communicative activity," and instead may regulate speech only under narrowly circumscribed conditions. *Perry*, 460 U.S. at 45. As relevant here, the City may enforce a content-neutral time, place, and manner restriction on the use of a public forum only if the City's regulation is "narrowly tailored to serve a significant government interest, and leave[s] open ample alternative channels of communication." *Id.*[8] To satisfy this standard, the City bears the burden of showing that the Ordinance "does not 'burden substantially more speech than is necessary to further the

[8] For purposes of this motion alone, Plaintiffs proceed as if the Ordinance is content-neutral even though it was adopted because of the City Council's desire to significantly decrease instances of panhandling. *See Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2227 (2015) (a speech restriction is content-based if it was adopted by the government "because of disagreement with the message [the speech] conveys").

government's legitimate interests.'" *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 665 (1994) (quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 799 (1989)). The City cannot do so.

C. Subsection 8-2-7-2(A), Which Bans All Expressive Activities On Every Public Way Intended For Vehicle Or Pedestrian Use, Imposes Unconstitutional Restrictions On Speech.

Subsection (A) of the Ordinance provides that "[i]t is unlawful for any person to stand on a street, highway, or controlled access roadway or the exit or entrance ramps thereto." As noted above, the Traffic Code's definition of "street" broadly incorporates "[t]he entire width . . . of every way publicly maintained . . . when any part thereof is open to the use of the public for purposes of vehicular or *pedestrian travel*," expressly including "publicly owned parking lots . . . and public grounds." Albuquerque Code of Ordinances § 8-1-1-2 (emphasis added) (definition of "street," incorporating definition of "public way"). Thus, subsection (A) prohibits every person in Albuquerque from standing on virtually any property maintained by the City – including parking lots, sidewalks, pedestrian footpaths, and even public parks.

Although subsection (A) nominally addresses where people may "stand," it cannot be upheld as an "incidental" limitation on speech because it restricts substantially more First Amendment activities than is necessary to serve any conceivable interest the City might reasonably have. *See United States v. O'Brien*, 391 U.S. 367, 376-77 (1968) (regulations that have an "incidental" effect on speech are justified only where, among other things, "the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest"). Subsection (A) prohibits *all* expressive conduct at *all* times in virtually *every* traditional public forum in the City, regardless of whether the conduct is unsafe. For example, it does not just prohibit pedestrians from standing in the middle of a major intersection downtown, but also forbids neighbors from chatting about their holiday plans in a

subdivision cul-de-sac, constituents from waiting on the sidewalk outside City Hall to petition their Councilors, and panhandlers from asking for donations in every public way in the City.

"In these quintessential public forums, the government may not prohibit all communicative activity." *Perry*, 460 U.S. at 45. That is precisely what the City has done in subsection (A) of the Ordinance. There is no conceivable rationale that could warrant entirely cutting off all public spaces in the entire City from expressive activity. Indeed, courts have struck down laws that prohibit standing in far narrower public ways than subsection (A). *See, e.g.*, *Cutting*, 802 F.3d at 81 (striking down ordinance that prohibited "standing, sitting, staying, driving or parking on median strips" because it "indiscriminately bans virtually all expressive activity in all of the City's median strips and thus is not narrowly tailored to serve the City's interest in protecting public safety"); *Thayer*, 144 F. Supp. 3d at 221, 237 (D. Mass. 2015) (enjoining ordinance that prohibited "walking or standing on any traffic island or upon the roadway of any street or highway" and thus was a "sweeping ban" on speech). Neither the First Amendment nor Article II, § 17 of the New Mexico Constitution permits this.

D. Subsections 8-2-7-2(B) And (C), Which Ban All Expressive Activities In A Wide Variety Of Locations In Which Expressive Conduct Has Historically Occurred, Impose Unconstitutional Restrictions On Speech.

Subsections (B) and (C) of the Ordinance, like subsection (A), impose a blanket ban on all expressive conduct in traditional public forums. These subsections make it unlawful for any person to occupy, among other areas, (i) any areas within six feet of a highway or roadway exit or entrance ramp; (ii) the landscaped area of any street median; (iii) any median less than six feet wide; and (iv) any other median vaguely deemed to be "not suitable for pedestrian use," even if those medians are accessible from "an otherwise lawful street crossing at an intersection or designated pedestrian crossing." Section 8-2-7-2(B)-(C). Because many medians in Albuquerque are less than six feet wide (or are landscaped), Compl. ¶ 29; Brewer Decl. ¶ 9;

Sanchez Decl. ¶ 8, these subsections prohibit panhandling, political demonstrations, or leafletting on almost every median in the City. This ban is unconstitutionally overbroad.

1. The City Has Not Identified Any Actual Harms Sought To Be Cured By Subsections (B) or (C).

To pass constitutional muster, speech restrictions must advance "a significant governmental interest." *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (citation omitted). That interest cannot simply be "important in the abstract." *Turner*, 512 U.S. at 664. Rather, "[w]hen the Government defends a regulation on speech as a means to redress past harms or prevent anticipated harms, it must do more than simply posit the existence of the disease sought to be cured. It must demonstrate that the recited harms are real, not merely conjectural." *Id.* (quotation marks and citation omitted); *see also Clatterbuck v. City of Charlottesville*, 92 F. Supp. 3d 478, 487 (W.D. Va. 2015), *appeal dismissed*, No. 15-1299 (4th Cir. 2015) (government must "adequately demonstrate[] that there is a serious problem justifying regulation"); *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 36 (D.C. Cir. 1977) ("[A] 'regulation perfectly reasonable and appropriate in the face of a given problem may be highly capricious if that problem does not exist.'" (citation omitted)).

The Ordinance here fails that basic threshold requirement. The City has asserted just two justifications for the Ordinance. First, when introducing the Ordinance to the City Council, Councilor Jones said that the Ordinance was being proposed "to conform with what the federal government wants as far as traffic safety." *Twenty-Second Council – Forty-Fourth Meeting*, Albuquerque City Council (Nov. 6, 2017, 5:00 PM), http://bit.ly/2CGm0YS. Councilor Jones pointed to no statute, regulation, guidance document, or any other source to support this assertion, nor does one exist: the federal government does not require cities to shut down traditional public forums to all expressive conduct in the name of traffic safety.

Second, the City is likely to try to justify the broad speech restrictions in the Ordinance by citing the UNM Study it commissioned, which is referenced heavily in the Ordinance's preamble. *See* Santos Decl., Ex. A, at 1-3. But this Study does not identify any problem that prohibiting standing on medians or near entrance/exit ramps would actually fix.

The UNM Study discusses New Mexico's high rate of pedestrian- and cyclist-involved car crashes and focuses on ten intersections with high numbers of such crashes. Santos Decl., Ex. B, at 5. None of those intersections are exit or entrance ramps, and, indeed, the Study does not mention exit or entrance ramps even once. Nor does the Study identify any problem caused by individuals simply standing on medians. Indeed, the only mention of medians addresses problems of jaywalking – something that is already prohibited under the Traffic Code, *see, e.g.*, Albuquerque Code of Ordinances § 8-2-7-9; *id.* § 8-2-7-3(B), and a problem that is distinct from what the Ordinance prohibits – simply using, accessing, or occupying medians, *see* Section 8-2-7-2(B)-(C). Though the Study says nothing about safety issues caused by merely being present at these – or any – locations, subsections (B) and (C) make mere presence at these locations unlawful rather than any type of *conduct* that presents an actual safety concern.

Because there is no "actual," rather than "conjectural" harm that would be addressed by a blanket ban on expressive activities on medians and near entrance and exit ramps, subsections (B) and (C) are unconstitutional restrictions on speech. *See Satawa v. Macomb County Road Comm'n*, 689 F.3d 506, 526 (6th Cir. 2012) (stating that "even if" the state's "proffered traffic-safety justification" controlled, the state's "hypothetical traffic-safety concern resting on aberrant behavior [] which has never happened . . . does not qualify as a significant government interest").

2. The Speech Restrictions Imposed By Subsections (B) And (C) Are Not "Narrowly Tailored" To "Significantly Serve" The City's Stated Purpose.

Even if the City were able to identify an actual, rather than conjectural, safety interest,

Subsections (B) and (C) would nonetheless be unconstitutional because the speech restrictions they impose are not narrowly tailed to serve that interest.

First, the prohibitions imposed by these subsections are exceptionally broad. These subsections ban *all* expressive activity at *all* times on most median strips in the City of Albuquerque and at all entrance and exit ramps in the City. Although medians and roads are traditional public forums, subsections (B) and (C) "prohibit all communicative activity" in these locations, which is precisely what the City is not permitted to do. *Perry*, 460 U.S. at 45. Such a broad ban is not tailored at all, much less narrowly. As the First Circuit stated when invalidating a similar median ordinance in *Cutting*, "it is hard to imagine a[n] . . . ordinance that could ban more speech." 802 F.3d at 88.

Second, the hallmark of a narrowly tailored speech restriction is that it does not "burden substantially more speech than is necessary." *Turner*, 512 U.S. at 665. Here, there are a variety of existing ordinances that do not restrict constitutionally protected speech that could be used to address any actual safety concerns that may exist in the relevant locations. For example, Section 67-7-1 of New Mexico's statutory code makes it "unlawful for any person or persons to in any manner obstruct any public road in this state, by putting therein or thereon any obstruction whatsoever." Section 8-2-1-33 of the Albuquerque Code of Ordinances makes it unlawful for any person to stand on a public way "in such a manner as to obstruct the free use of such public way." Sections 8-2-3-6(A) and 8-2-7-3(B) make it unlawful for a pedestrian to "suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield." Section 12-2-6(A) makes unlawful an assembly of three or more persons that "[c]reates a clear and present danger or an immediate threat of substantial harm to persons and/or property." Section 12-2-7(A) criminalizes "[h]indering or molesting

persons passing along any street, sidewalk, crosswalk, or other public way." Where, as here, a city has not demonstrated why existing laws are inadequate to address the stated harms, broad restrictions on expressive activity fail the narrow tailoring test. *See, e.g.*, *McCullen*, 134 S. Ct. at 2538 ("Any such obstruction can readily be addressed through existing local ordinances."); *Vill. of Schaumberg*, 444 U.S. at 639 (existence of other relevant provisions "suggest the availability of less intrusive and more effective measures"); *Cutting*, 802 F.3d at 91-92 (discussing "existing state and local laws that prohibit disruptive activity in roadways"); *Clatterbuck*, 92 F. Supp. 3d at 490 ("The City has various traffic regulations in place that directly address the City's claimed public safety concerns and place no imposition on First Amendment speech rights.").

Third, the City has not demonstrated that it has, in fact, made any effort to address these concerns more narrowly, which is a prerequisite to laws prohibiting expressive conduct in traditional public forums under the Supreme Court's recent decision in *McCullen*. In that case, the Court explained that "[g]iven the vital First Amendment interests at stake, it is not enough for [a government] simply to say that other approaches have not worked." 134 S. Ct. at 2540. Rather, it must show "that it seriously undertook to address the problem with less intrusive tools readily available to it." *Id.* at 2539. The City made no such effort here. Neither the preamble to the Ordinance nor the legislative history makes any mention of narrower restrictions that were considered but determined to be insufficient to address pedestrian safety concerns. Indeed, while the UNM Study made a variety of recommendations for improvements that could prevent crashes involving pedestrians or bicyclists – none of which included banning individuals from medians or roadways, Santos Decl., Ex. B, at 51 – the City instead decided to eliminate expressive conduct from traditional public forums because that would "promote safety without requiring additional capital expenditures from the City's limited capital resources." Santos

Decl., Ex. A, at 3. But the narrow tailoring requirement exists "to prevent[] the government from too readily sacrific[ing] speech for efficiency," which is exactly what the City is doing here. *McCullen*, 134 S. Ct. at 2534 (second alteration in original) (quotation marks omitted); *see also Cutting*, 802 F.3d at 92 (in enacting median ban, city "'sacrifice[ed] speech for efficiency,' and, in doing so, failed to observe the 'close fit between ends and means' that narrow tailoring demands" (alteration in original) (quoting *McCullen*, 134 S.Ct. at 2534).

Notwithstanding the numerous safety-related ordinances already on the books, the City jumped immediately to an outright ban on all expressive conduct in a wide variety of traditional public forums in the City. There is no record of the City considering narrower alternative measures, such as a law limiting activity on medians only at night or during hazardous weather conditions, a law limiting activity on medians where there was an established record of accidents or injuries, or more vigorously prosecuting the existing obstruction laws already on the books. As numerous federal courts considering anti-panhandling ordinances have concluded since *McCullen*, without evidence that the City ever tried to address its safety concerns through less intrusive measures, the City "cannot carry its burden of demonstrating that the . . . Ordinance is narrowly tailored." *Reynolds v. Middleton*, 779 F.3d 222, 232 (4th Cir. 2015); *accord Cutting*, 802 F.3d at 92; *Thayer*, 144 F. Supp. 3d at 237-38.

3. Subsections (B) And (C) Do Not Provide For Ample Alternative Channels For Communication.

Regulations of traditional public forums also must leave open ample alternative channels for parties to engage in protected speech. *Ward*, 491 U.S. at 791. Alternative channels that "involve more cost and less autonomy" to speakers, that "are less likely to reach persons not deliberately seeking" the protected speech, and that "may be less effective media for communicating the message" are "far from satisfactory" and do not satisfy the First

Amendment's requirements for proper time, place, and manner restrictions on speech. *Linmark Assocs., Inc. v. Twp. of Willingboro*, 431 U.S. 85, 93 (1977). "[O]ne is not to have the exercise of his liberty of expression in appropriate places abridged on the plea that it may be exercised in some other place.'" *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 546, 556 (1975) (quoting *Schneider*, 308 U.S. at 163).

Subsections (B) and (C) fail to provide ample alternative channels for communication and are therefore invalid for this reason as well. As Mr. Martin and Ms. Brewer explain in their accompanying declarations, they solicit donations on medians and near exit and entrance ramps because those locations offer the only effective means to reach their target audience: drivers. Martin Decl. ¶ 9; Brewer Decl. ¶ 15. Those locations also offer the safest means for doing so by allowing them to solicit donations without walking out into the street, as they would need to do if required to panhandle from the sidewalk. Brewer Decl. ¶ 15. Mr. McCoy and Ms. O'Grady similarly explained that these locations offer the best opportunity for donating to panhandlers because the stoplights at these intersections provide drivers adequate time to provide donations from their car windows. McCoy Decl. ¶ 8; O'Grady Decl. ¶ 15. And as Ms. Sanchez explained, political issue advocacy and leafletting in roadway medians is a uniquely effective way to reach large audiences in Albuquerque. Sanchez Decl. 10 By closing off these areas from constitutionally protected speech, the Ordinance forces Plaintiffs and others like them to take their speech to less busy, less visible, and less populous parts of the City, which are significantly less effective locations for engaging their audience. These alternatives fall far short of constitutional requirements because they are demonstrably "less effective media for communicating the [Plaintiffs'] message." *Linmark Assocs.*, 431 U.S. at 93; *see also City of Ladue v. Gilleo*, 512 U.S. 43, 57 (1994) (overturning an ordinance that barred residents from

posting any type of sign on their property in part because the prohibited speech "may have no practical substitute," particularly "for persons of modest means"); *Comite de Jornaleros de Redondo Beach v. City of Redondo Beach*, 657 F.3d 936, 956 (9th Cir. 2011) (City did not show that solicitation on sidewalks and canvassing door-to-door are adequate alternative channels of communication). This may be exactly what the City wants, but it is not constitutionally permissible.

E. Subsections 8-2-7-2(D) And (E), Which Ban Exchanges Of Donations Or Political Literature Between Vehicle Occupants And Pedestrians On Every Roadway In Albuquerque, Impose Unconstitutional Restrictions On Speech.

Subsections (D) and (E) prohibit exchanges of donations or political literature between drivers and pedestrians on every roadway in the City – classic expressive conduct in a quintessential public form. These are not reasonable time, place, or manner restrictions.

1. The City Has Not Identified Any Actual Harms Sought To Be Cured By Subsections (D) And (E).

As was true of the median and ramp roadside bans contained in subsections (B) and (C), the City has not identified any actual harm that a complete ban on roadway donations or leafletting would remedy. Though the City again may invoke the UNM Study to try to justify its law, that Study does not identify any accidents or injuries that have ever been caused by roadside panhandling or leafletting.

As noted above, the UNM Study focuses on ten intersections with large numbers of pedestrian and bicyclist-involved crashes and identifies various "contributing factors" that accounted for crashes at those intersections, including "Pedestrian Error," "Poor Driving," "Alcohol/Drug" involvement, and "Mechanical Defect." Santos Decl., Ex. B, at 5, 23. The Study does not define what it means by "Pedestrian Error," nor does it provide disaggregated data on what specific types of "Pedestrian Errors" caused accidents at these intersections.

Indeed, the 67-page Study makes only 3 references to solicitation. In each instance, the Study notes that "asking for donations" occurred at certain intersections, but it does not identify "asking for donations" as the cause of even a single accident or injury. *Id.* at 27, 32, 45.

Because there exists no actual safety concern that would be addressed by a blanket prohibition on exchanging donations or leaflets on roadways, subsections (D) and (E) are unconstitutional restrictions on speech.

2. The Speech Restrictions Imposed By Subsections (D) And (E) Are Not "Narrowly Tailored" To "Significantly Serve" The City's Stated Policy Purpose.

Even if the City were able to identify an actual safety interest that it seeks to cure through subsections (D) and (E), these provisions still would be unconstitutional because the speech restrictions they impose are not narrowly tailored to serve that interest.

The U.S. District Court for the District of New Hampshire recently struck down a virtually identical ordinance on this ground in *Petrello v. City of Manchester*. In that case, the city adopted an ordinance making it unlawful for any person to "knowingly distribute any item to, receive any item from, or exchange any item with the occupant of any motor vehicle when the vehicle is located in the roadway." 2017 WL 3972477, at *16. Though the ordinance nominally addressed only "exchange[s]" of items between a pedestrian and a vehicle occupant, the court noted that "[w]here the physical exchange of money is intertwined with solicitation speech, it is entitled to First Amendment protection." *Id.* at *18. Because the ordinance regulated speech in a traditional public forum, it was subject to the narrow tailoring requirement.

The court held that the ordinance failed the narrow tailoring test for numerous reasons. First, the ordinance banned *all* roadside exchanges in the city even if those exchanges did not obstruct traffic or endanger the public – such as if "a panhandler on the sidewalk . . . accept[ed] money from a motorist at a red light." *Id.* at *20. Second, the Ordinance was geographically

overinclusive because it applied citywide, without any showing of "citywide issues related to roadside exchanges." *Id.* Third, the ban was underinclusive because it penalized only pedestrians, and not motorists. *Id.* at *21. Fourth, the City had "less speech-restrictive means at its disposal to address legitimate public safety and traffic flow concerns," such as ordinances making it unlawful to obstruct traffic. *Id.* at *22.

Subsections (D) and (E) fail the narrow tailoring test for many of the same reasons. First, these restrictions are not tethered to any actual safety concerns. As Plaintiffs describe in their declarations, providing or receiving a donation from a vehicle takes only a few seconds and can be done quite safely when vehicles are stopped at a red light. *E.g.*, Brewer Decl. ¶ 11; O'Grady Decl. ¶ 15. Yet the Ordinance prohibits all roadside exchanges and not merely those that pose safety concerns.

Second, as was true in *Petrello*, the Ordinance here is extraordinarily broad in geographic and temporal scope. It applies to every roadway in the entire City under any circumstances – from the busiest thoroughfares during rush hour to quiet residential streets on a Sunday afternoon. Such broad restrictions that "regulate[] a wide range of situations that likely have no impact on safety" are "substantially broader than necessary to achieve the government's interest." *Wilkinson v. Utah*, 860 F. Supp. 2d 1284, 1290 (D. Utah 2012) (striking down solicitation ban that would not only have banned conduct that posed actual safety risks but also "would prohibit children from selling lemonade in front of their house on a quiet residential street in Parowan, Utah or a panhandler from requesting donations alongside a gravel road").

Third, though the Ordinance applies equally to vehicle occupants and those on the roadside, it is nonetheless underinclusive for a different reason: the Ordinance makes it unlawful to hand a dollar bill out a car window or to hand a leaflet to an interested motorist (exchanges

that take only a few seconds), but it permits other expressive interactions that can be far more disruptive – such as a driver asking a pedestrian for complicated directions.

Fourth, as in *Petrello*, *McCullen*, *Reynolds*, *Cutting*, and *Thayer*, the City has numerous "less speech-restrictive means at its disposal to address legitimate public safety and traffic flow concerns." *Petrello*, 2017 WL 3972477, at *22. In addition to the numerous laws discussed above that could address unsafe conduct by pedestrians, the Traffic Code contains myriad provisions that could be used to enforce dangerous safety concerns created by drivers who unsafely interact with pedestrians. *See, e.g.*, Albuquerque Code of Ordinances § 8-2-1-12 (reckless driving); *id.* § 8-2-1-13 (careless driving); *id.* § 8-1-2-31 (stopping, standing, or parking near hazardous or congested places); *id.* § 8-2-1-32 (vehicles not to obstruct intersection); *id.* § 8-2-1-33 (vehicles, pedestrians not to obstruct streets).

Finally, there is no indication that the City has made any effort to address more narrowly any safety concerns it has about roadside exchanges, which is, as noted above, a prerequisite to these types of broad speech restrictions. *See McCullen*, 134 S. Ct. at 2539-40; *supra* pp. 18-19.

3. Subsections (D) And (E) Do Not Provide For Ample Alternative Channels For Communication.

The Ordinance's roadway exchange ban does not provide adequate alternative channels for individuals who wish to make or receive donations. Because these subsections apply citywide, they leave no alternatives for providing or receiving donations or political literature on any street in the City. The only plausible alternative would be to solicit and provide donations or leaflets on the sidewalk, but the target audience for roadside solicitors is vehicles, not pedestrians. Providing a donation from the vehicle of a window while stopped at a red light offers an easy, safe, and convenient way for individuals to donate to those in need, and for panhandlers to receive much-needed donations. *E.g.*, McCoy Decl. ¶¶6-7; Brewer Decl. ¶¶ 9-11;

O'Grady Decl. ¶ 4-11. Likewise, a red light is the ideal location for a political activist to pass out an educational flyer, conveying her message to an interested motorist. Sanchez Decl. ¶¶ 4-6. By contrast, as Ms. Brewer and Ms. Sanchez explain in their Declarations, sidewalk solicitation offers none of those benefits and, thus, is almost entirely ineffective. Brewer Decl. ¶ 14; Sanchez Decl. ¶ 10.

Moreover, the possibility that a solicitor could still solicit donations from the roadways so long as the physical exchange occurs in a parking spot or a parking lot is not only unrealistic, it may also be unsafe, particularly in areas affected by crime or gang violence. O'Grady Decl. ¶ 15. It would also be prohibited by other parts of the Ordinance, which prohibit standing on any public way (subsection (A)) and prohibit standing on most medians in the City (subsections (B) and (C)). Because any alternatives are either illusory or offer demonstrably "less effective media for communicating the [Plaintiffs'] message," the Ordinance imposes unconstitutional restrictions on speech. *See Linmark Assocs.*, 431 U.S. at 93.

II. THE REMAINING THREE FACTORS WEIGH HEAVILY IN PLAINTIFFS' FAVOR.

In the First Amendment context, "the likelihood of success on the merits will often be the determinative factor" because of the importance of the interests at stake. *Hobby Lobby*, 723 F.3d at 1145 (quotation marks omitted). Nevertheless, the remaining factors for a preliminary injunction are satisfied here.

First, Plaintiffs will suffer irreparable harm from the City's infringement of their free speech rights. As the Supreme Court has recognized, "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *accord Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1190

(10th Cir. 2003). Because Plaintiffs have demonstrated that they are likely to succeed on their claims, they therefore have also demonstrated irreparable harm.

Second, the balance of harms favors an injunction. "The injury to a plaintiff deprived of his or her First Amendment rights almost always outweighs potential harm to the government if the injunction is granted." *Verlo v. City & County of Denver*, 124 F. Supp. 3d 1083, 1095 (D. Colo. 2015). This is because the government "does not have a significant interest in enforcing a policy that violates any person's constitutional rights." *Owasso Kids for Christ v. Owasso Public Schools*, 2012 WL 602186, at *12 (N.D. Okla. Feb. 23, 2012). Thus, the harm the Ordinance imposes on Plaintiffs' constitutional rights outweighs whatever minimal damage that would result from the City's inability "enforce what appears to be an unconstitutional statute." *ACLU v. Johnson*, 194 F.3d 1149, 1163 (10th Cir. 1999).

Third, the issuance of an injunction will serve the public interest because Plaintiffs have demonstrated that the challenged ordinance unconstitutionally restricts speech. "Vindicating First Amendment freedoms is clearly in the public interest." *Pac. Frontier v. Pleasant Grove City*, 414 F.3d 1221, 1237 (10th Cir. 2005); *see also Elam Constr., Inc. v. Regional Transp. Dist.*, 129 F.3d 1343, 1347 (10th Cir. 1997) ("The public interest also favors plaintiffs' assertion of their First Amendment rights."). An injunction here would protect not only *Plaintiffs'* rights to free speech, but also the rights of others whose speech may be chilled. *See Johnson*, 194 F.3d at 1163 (injunction would "protect the free expression of the millions of Internet users both within and outside the State of New Mexico"). Indeed, several of Plaintiffs have observed a marked chill in homeless persons asking for donations since the Ordinance was adopted. Brewer Decl. ¶ 17; O'Grady Decl. ¶ 12; McCoy Decl. ¶ 11.

Moreover, because the only effect of the three speech restrictions imposed by the

Ordinance is to silence protected speech in public forums while achieving no demonstrated public safety benefit, the public interest is disserved by the Ordinance's continued enforcement. The public has no interest in a law that thwarts its First Amendment rights, especially when that law does not significantly serve any legitimate, genuine government interest.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court grant a preliminary injunction prohibiting the City from enforcing Section 8-2-7-2.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing motion was emailed to Attorney Tim Atler, counsel for the City of Albuquerque, at tja@atlerfirm.com on this 11th day of January, 2018.

/s/ María Martínez Sánchez
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