

# 71-PELRB-2021

## STATE OF NEW MEXICO PUBLIC EMPLOYEE LABOR RELATIONS BOARD

In re:

AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, COUNCIL 18,  
AFL-CIO, LOCAL 3999,

Complainant,

v.

PELRB 106-20

CITY OF SANTA FE,

Respondent

### ORDER

**THIS MATTER** comes before the Public Employee Labor Relations Board ("Board") pursuant to NMAC 11.21.3.15(C) for approval of a Settlement Agreement reached by the parties to this case pursuant to Order 3-PELRB-2021. After review of the Settlement Agreement and confirming the mutual acceptance of the Agreement by the parties, and being otherwise sufficiently advised, the Board voted 3-0 to approve the Settlement Agreement.

**IT IS ORDERED:** The Settlement Agreement entered into by the parties to the above-captioned case is hereby approved.

**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

10/18/2021  
DATE

Mark Myers  
MARK MYERS, BOARD CHAIR

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) is made between the City of Santa Fe (“Employer”) and the American Federation of State, County and Municipal Employees, Council 18, Local 3999 AFL-CIO (“AFSCME”), collectively the “Parties”.

### RECITALS

WHEREAS, AFSCME filed Prohibited Practice Complaint (“PPC”) No. 106-20 with the New Mexico Public Employees Labor Relations Board (“PELRB”), alleging that the City violated the PEBA and the CBA between the Parties by instituting a furlough in 2020;

WHEREAS, the PELRB issued Order 3-PELRB-2021, modifying the Hearing Officer’s Report and Recommended Decision, and ordering the Parties to confer to determine damages caused by the findings of the modified Report and Recommended Decision but allowed for a hearing on damages if the parties were unable to agree; and

WHEREAS, a hearing on the issue of damages was held before the Hearing Examiner, who issued a Supplemental Report and Recommended Decision on damages; and

WHEREAS, the Union proposed a settlement regarding the proper manner in which to implement the determination on damages in the most efficient manner possible, and the Parties have reached this Agreement for that purpose.

NOW, THEREFORE, in consideration of the mutual promises and undertakings set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### AGREEMENT

1. The Parties, in the interest of closure and the mutual resolution of their differences, seek to enter into this Agreement, settling Case 106-20, without conceding their positions in the proceedings regarding application of the Collective Bargaining Agreement between the parties.

2. To implement the intended effects of the Supplemental Report and Recommended Decision, the City will take the following steps within the number of days of the execution of this Agreement specified below, which the Union agrees fully and adequately implements the intended effects of the Supplemental Report and Recommended Decision on damages:

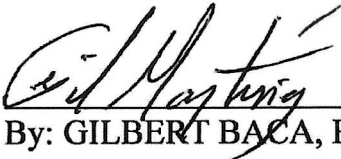
- a. Within 60 days, the City will calculate and reimburse employees for lost leave accruals caused by the employees actual furloughed hours, which will be no more than what the hours the employee would have earned without furlough hours, and shall provide the union with an accounting of that.
- b. Within 45 days, the City will pay \$700,000 to the bargaining unit. That amount will be distributed to the bargaining unit in the individual amounts calculated by AFSCME and prepared by AFSCME as Exhibit A to this Agreement. The City will

not make PERA contributions on this amount. The difference between the damages amount identified in the Supplemental Report and Recommended Decision (roughly \$521,000) and \$700,000, represents additional compensation to the bargaining unit employees to offset the fact that the City is not making PERA contributions on the lost wages.

- c. The payments reflected in Exhibit A will be treated as wages reported for year 2021, such that mandatory taxes would be withheld (federal, state, FICA/SS), but no other withholdings will be made.
  - d. For any employee listed on Exhibit A who is no longer employed by the City, the City will mail the check to that employee's last known address via normal first-class mail. The City will notify the Union of any mail returned as undeliverable, and the Parties will jointly make commercially reasonable efforts to locate the individual and notify him or her that the check is being held by the City's Human Resources Department for pickup or for further instruction on delivery.
- 3. This Agreement is binding but non-precedent setting.
  - 4. The Parties agree to pay their own costs and fees associated with PPC No. 106-20.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth next to their signatures below.

**AFSCME:**

 FOR GILBERT BACA DATE: SEPT. 7, 2021  
By: GILBERT BACA, PRESIDENT

**CITY OF SANTA FE:**

  
ALAN M. WEBBER, MAYOR DATE: Sep 13, 2021

**ATTEST:**

  
Kristine Mihelcic (Sep 14, 2021 08:33 MDT)  
KRISTINE M. MIHELICIC, CITY CLERK DATE: Sep 14, 2021

Approved as to Form:

Christopher W. Ryan  
Christopher W. Ryan (Sep 13, 2021 08:40 MDT)

CHRISTOPHER RYAN,  
SR. ASSISTANT CITY ATTORNEY

DATE: Sep 13, 2021

Approved for Finances:

Mary McCoy

MARY T. MCCOY, FINANCE DIRECTOR

DATE: Sep 13, 2021