

ALBUQUERQUE DEVELOPMENT COMMISSION
Local Economic Development Act Hearing

November 23, 2020

LEDA-20-7: Netflix Studios Project
Case Number: LEDA 2020-10

REQUEST: Approval of Seven Million Dollars (\$7,000,000) in City Local Economic Development Act funds is requested (One Million Dollars in cash funds and Six Million Dollars in “in-kind” infrastructure/development cost support)

PROJECT SUMMARY: Netflix is requesting Seven Million Dollars (\$7,000,000) in Local Economic Development Act (LEDA) funds to help develop a film, television and multi-media production campus around the Albuquerque Studios site located at 5650 University Boulevard SE in the Mesa Del Sol Planned Community in Albuquerque. (The company is also requesting Seventeen Million Dollars (\$17,000,000) in State LEDA funds, but that transaction is not under review here.)

Netflix, Inc. is an American technology and media services provider and production company headquartered in Los Gatos, California. Reed Hastings and Marc Randolph founded Netflix in 1997 in Scotts Valley, California. The company's primary business is its subscription-based streaming service that offers online streaming of a library of films and television series, including those produced in-house. Netflix purchased Albuquerque Studios in 2018 and continued with significant production expenditures of approximately One Hundred Fifty Million Dollars (\$150,000,000) over the past two years (prior to the novel coronavirus pandemic that shut down the film and television industry worldwide).

The company's project proposal anticipates a capital expenditure of Five Hundred Million Dollars (\$500,000,000) to be invested over the next ten years. Currently, the Company has identified capital projects totaling One Hundred Fifty Million Dollars (\$150,000,000) to be undertaken in the next 2-3 years. The remaining capital improvements totaling up to Three Hundred Fifty Million Dollars (\$350,000,000), as proposed, will be further defined and finalized as the project develops. The Staff Analysis will give the overview of the entire project and then outline the more limited requirements of the Project Participation Agreement (the “PPA”), as provided in the Application. The proposed project is a large investment which includes Netflix purchasing 170 acres of land in addition to the original acquisition of Albuquerque Studios. The company intends to expend a minimum of One Hundred Fifty Million Dollars (\$150,000,000) in capital investment, with the potential to reach Five Hundred Million Dollars (\$500,000,000) in capital investment. The investment will occur in two phases and include improvements to the existing facility, ten sound stages, a 120,000 square foot office building, a post-production facility, a visual effects facility, mill buildings where sets are constructed, a 50,000 square foot special effects warehouse, a commissary, and other support buildings. The PPA focuses on a total Two Billion Dollars (\$2,000,000,000) of production spend by December 31, 2033, and a commitment of One Hundred Fifty Million Dollars (\$150,000,000) in capital investment, including a training center and post-production facilities on or before December 31, 2027.

In addition, Netflix has committed to develop a significant film training program in conjunction with New Mexico academic institutions. Netflix will provide Five Hundred Thousand Dollars (\$500,000) annually for workforce development programs for New Mexicans until the training facility is fully operational. The training facility is intended to be used by New Mexicans to gain

the skills necessary to work in the industry. If Netflix fails to achieve having 70% of the trainees with permanent New Mexico addresses, Netflix will provide Two Hundred Fifty Thousand Dollars (\$250,000) annually to the New Mexico Film Office to provide additional training programs for New Mexicans.

An important part of this project is the development of an indigenous film production training program. Netflix will commit to partnering and supporting training and workforce development programs with New Mexico-based organizations and/or institutions in order to support Native content creators and filmmakers who are members of one of the recognized tribes or pueblos of New Mexico. The partnership/support will be modeled after, but not limited by, Netflix's ImagiNATIVE program in Canada.

The capital investment and workforce programs are in addition to Netflix's commitment to generate an additional One Billion Dollars (\$1,000,000,000) in production spend over and above Netflix's initial commitment of One Billion Dollars (\$1,000,000,000) in production spend. Netflix commits to a Direct Spend (on its own productions) of at least One Billion Two Hundred Million Dollars (\$1.2 billion) and Eight Hundred Million Dollars (\$800,000,000) in Direct and/or Indirect Spend (leasing the facility to other production companies), for a total of Two Billion Dollars (\$2,000,000,000) in Direct and Indirect Spend (\$1.2 billion of that generated locally in Albuquerque).

The impact of the film and television industry extends beyond the crew. Netflix estimates that approximately 30% of production spending goes into goods and services, of which 70% is spent locally. This means the One Billion Dollars (\$1,000,000,000) of production spending can be expected to generate approximately Two Hundred Ten Million Dollars (\$210,000,000) spent on local goods and services. This benefits businesses such as local lumber, glass and paint stores, hotels, food vendors and caterers, restaurants, dry cleaners, local security companies and insurance companies. The production companies pay local office owners and home-owners location rental fees and often lease warehouses, parking lots and City buildings. The overall economic impact is experienced throughout the community.

For this project, the evaluation criteria normally addressed in a LEDA project around job creation is addressed differently due to the nature of the film and television industry. Individual production companies' jobs are not permanent, but vary depending on the production. The focus, evaluation, and performance requirements for this project are structured around the economic investment in both Direct and Indirect Spend. While we know production spend results in hundreds of jobs, the performance measures and penalties/clawbacks in the PPA are built around the company's ability to meet these financial commitments.

Under LEDA, the State and the City are empowered to offer discretionary incentives to companies that support economic development projects that foster, promote, and enhance local economic development efforts. The City's LEDA Ordinance requires that economic development projects requesting economic assistance from the City shall clearly demonstrate the benefits that will accrue to the community and that the qualifying entity is making a substantive contribution to the community. Our analysis concludes that Netflix's commitment of additional capital investment, its significant increase in production spend, establishment of training programs, and the projected expenditure of more than \$200 million on local goods and services, will result in a high degree of economic benefit and a strong substantive contribution to the community.

FINDINGS:

1. LEDA-20-7 is a qualifying entity as defined by the State's Local Economic Development Act and the City enabling legislation (F/S O-04-10, as amended); and
2. LEDA-20-7 would make positive substantive contributions to the local economy and community by growing and enhancing Albuquerque's position as a significant center for film, television and media production, with a One Hundred Fifty Million Dollars (\$150,000,000) in private sector capital investment and an additional One Billion Dollars (\$1,000,000,000) in production spend; and
3. LEDA-20-7 would anchor the shared community vision of Mesa Del Sol as a major employment center for Albuquerque and comply with the adopted Comprehensive and Planned Community development requirements; and
4. LEDA 20-7 would make positive substantive contributions to the local economy and community by purchasing additional acreage and making additional renovations and improvements to the existing Netflix facilities at Mesa del Sol and developing a major television and film production campus; and
5. LEDA 20-7 would make additional positive contributions to the local economy by committing to operate in the community for at least thirteen years; and
6. LEDA-20-7 would have additional positive community impact through the development of a training program/center with institutions of higher education, and a focus on dedicating resources to develop production skills and capacity for indigenous people; and
7. LEDA 20-7 has demonstrated the financial capability to undertake and successfully manage the Project and will provide acceptable security; and
8. LEDA 20-7 would meet the LEDA evaluation criteria established by the City, comply with the adopted City plans and policies, meet community economic development priorities and objectives, and make a substantive contribution to the community.

While the staff analysis contains information on the entire project, the LEDA application, as shown in Exhibit 1 focuses more narrowly on the company's commitment pursuant to the terms of the PPA and the investment to be created and associated community economic impacts.

Exhibit 2 is a draft of the required PPA between Netflix and the City. The PPA is summarized in Section VI.

The Project includes a fiscal impact analysis prepared by the University of New Mexico's Bureau of Business and Economic Research (BBER), attached hereto as Exhibit 3. The fiscal impact analysis is based on information the Company and the New Mexico State Film Office provided to BBER. The analysis shows that based on the assumptions contained therein the company will make a substantive contribution to the community and will generate more than \$11 million in net tax revenues. The Fiscal Impact Analysis finds the City will recoup the value of its investment within ten years.

PROJECT ANALYSIS: The project, as proposed in the project application, will be analyzed in accordance with the Local Economic Development Act project criteria as required under City Ordinance F/S O-04-10, as amended.

I. PROJECT ELIGIBILITY

1. QUALIFYING ENTITY

City enabling legislation (F/S O-04-10, as amended), as well as the State Local Economic Development Act, establishes a definition for a “Qualifying Entity” eligible for LEDA funding assistance. Netflix qualifies under the Act and the Ordinance by meeting the following definition:

Qualifying entity. A corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two (2) or more of the following:

- a) A commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but not including any enterprise for sale of goods or commodities at retail or for the distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities, except as provided by paragraph E of this definition;
- b) A business in which all or part of the activities of the business involve the supplying of products and services to the general public, governmental agencies, or a specific industry or customer, but, other than as provided in Paragraph E of the statute subsection, not including businesses primarily engaged in the sale of goods or commodities at retail. As such, the Netflix project represents a qualifying entity under State and City laws.

2. ECONOMIC DEVELOPMENT POLICIES AND OBJECTIVES

The City’s enabling legislation also states that applications for LEDA assistance, which meet the policies and objectives of the City’s community economic development plans, shall receive priority. Netflix qualifies as the type of project that meets the City’s identified economic development priorities under the following categories:

- a) Private companies seeking to build, expand, or relocate facilities;
- b) Private companies which provide facilities or services which enhance the abilities of Albuquerque businesses to operate

In addition, the project meets the Economic Development Department’s criteria for Economic Development Incentives:

- *Leverage our Core Assets;
- *Focus on High-Growth Specialties
- *Support Focused and Positive ROI Projects
- *Create Economic Base Jobs

II. LAND USE, PLAN AND DESIGN ELEMENTS

1. PLAN & ZONING:

Is the present zoning appropriate, or would it need changes to fit City's zoning policies? Does the project fit Area, Sector, Metropolitan Redevelopment, and/or Comprehensive Plan policies? Projects must conform with all adopted City plans and policies.

Phase I - approximately 111 Acres

(Note: Assessed value represents the taxable value, which is usually about 1/3 of market value.)

The existing Netflix production facilities are located at 5650 University Boulevard SE, Albuquerque, NM 87106.

Current Studio Site—27.9 Acres

Tract 26, Bulk Land Plat for Mesa del Sol Innovation Park. Assessed Value: \$22,000,000

PSA #1 legal descriptions (New property to be purchased and developed)—83 Acres

Tract 17, Mesa del Sol Innovation Park Recorded in Bernalillo County, New Mexico Sept. 13, 2007, in book 2007C, Pg 259, Document No. 2007131551. Assessed Value: \$813,444

Tracts 22-A, 22-B, and 22-C, A replat of Tract 22, Mesa del Sol Innovation Park, Recorded in Bernalillo County, New Mexico April 18, 2008, Book 2008C, Pg 92, Document No. 2008044090. \$588,942 (22-A), \$550,344 (22-B), \$41,397 (22-B)

Tract O, Mesa del Sol Innovation Park II, Bulk Land Plat, Recorded in Bernalillo County, New Mexico August 7, 2008, in Book 2008C, Pg 175, Document No. 2008089615. Assessed Value: \$360,663

Tract P, Mesa del Sol Innovation Park II, Bulk Land Plat, Recorded in Bernalillo County, New Mexico August 7, 2008, in Book 2008C, Pg 175, Document No. 2008089615. Assessed Value: \$1,417,956

Tract OS-7, Mesa del Sol Innovation Park II, Bulk Land Plat, Recorded in Bernalillo County, New Mexico August 7, 2008, in Book 2008C, Pg 175, Document No. 2008089615. Assessed Value: \$0

Tract Q-2 and Q-3, A replat of Tract Q, Mesa del Sol Innovation Park II, Recorded in Bernalillo County, New Mexico March 17, 2009, in Book 2009C, Pg 0040, Document No. 2009028207. Assessed Value: \$89,091

Phase II - PSA #2 (New land to be purchased and developed)—82 Acres

- TRACT N, UPC# 1010605132236810201. Assessed value \$315,867
- TRACT A-1-A-1 BULK LAND PLAT TRACT Assessed Value: \$395,000

The Project is within the approved Mesa Del Sol Master Plan, and has gone through the Level B Community Plan review and approval process. While each parcel will require a Level C Site Development approval, the uses proposed fall within the City's Comprehensive Plan and the Mesa Del Sol Level B Planned Community Plan.

PSA-1, PSA-2 and the State Trust lands are all designated as Employment Center in the adopted Mesa del Sol Level A and Level B Plans. At the time of the adoption of the Level A Master Plan, permissive zoning categories for the Employment Center classifications included O-1, C-1, C-2, C-3, M-1 and IP zoning. Under the City's prior zoning code, a film studio was classified as M-1, a Light Manufacturing activity. Support spaces were classified as O-1, Office.

Under the current Integrated Development Ordinance which consolidated the Land Use Table, activities related to a film and television studio still fall under Light Manufacturing and Office; both are considered permissive uses within the Mesa del Sol Employment Center.

2. LAND USE:

Will the proposed use make a positive contribution to the Albuquerque economy and the immediate neighborhood?

The Project will make a positive contribution to the local, regional, and state economy by not only adding One Hundred Fifty Million Dollars (\$150,000,000) in construction and other capital expenditures, but an additional One Billion Dollars (\$1,000,000,000) in production spend in addition to original project's commitment of One Billion Dollars (\$1,000,000,000). The research has shown that about 30% of production spend is on goods and services, of which 70% is spent locally. This includes a full range of products and services such as hotels, car rentals, dry cleaning, florists, rentals from antique shops, restaurants, gift shops, home purchases, ski rentals, office supplies, furniture companies, postal and other package delivery services, lumber and home improvement products, pharmacies, grocery stores, jewelry stores, and breweries and wineries. That equates to \$210 million in additional spending on local goods and services related to the production spend.

The new developments will continue to add employment opportunities to the area as they join other employers and users of the Innovation Park at Mesa Del Sol including the International School, UNM's Film and Digital Media Department, Fidelity Investments, and United Poly Systems.

The new Netflix Studios project further supports the City's Economic Development criteria for the use of incentives by Leveraging our Core Assets, Focusing on High-Growth Specialties, Supporting Focused and Positive ROI Projects, and providing approximately 994 on-going economic base jobs.

The Project also conforms to two of the City's Economic Development Strategies:

Smart Recruitment, Retention, and Expansion – The Economic Development Department is focused on recruiting companies from specific industries that build on Albuquerque's existing assets. We support new enterprise creation, cluster development, and strategic attraction and recruitment of businesses that align with and complement existing strengths.

Creative Economy and Film – Albuquerque offers a unique culture, cuisine, art, and music scene. The entrepreneurial spirit is strong and an inherent part of Albuquerque's culture. The creative economy and film industry are key components of the economic vitality in Albuquerque.

The project also supports: a) An Economic Development Strategy for Albuquerque/Bernalillo County to attract, develop and retain responsible and responsive businesses; nourish expansion of existing and new local businesses; and emphasize economic base companies; and b) The Comprehensive Plan Economic Development Policies to: encourage expansion of export-based business to customers across the country that strengthen the economy; encourage prospective employers willing to hire local residents and able to diversify the employment base; development of local business enterprises as well as the recruitment of outside firms. As mentioned above, the project also supports the economic development priorities and objectives of the City's Local Economic Development Act.

The Netflix Project further supports the Economic Development Department's criteria for the use of incentives as described above.

3. INFILL:

While this project is not an infill project, it does help the development of a significant employment center in Albuquerque that has been thoroughly reviewed and vetted for many years. The Project will require the extension of infrastructure, which has been reviewed and planned for with the adoption of the Mesa Del Sol Master and Level B Community Plans. Additional opportunities for public participation are included as the development process moves forward. The company will be working with both the public and private sector utility and infrastructure providers. There have been significant discussions with representatives from the Mesa Del Sol Tax Increment Development District Board, as well as initial talks with the Albuquerque Bernalillo County Water Utility Authority.

4. DESIGN AND CONSERVATION:

Netflix proposes to include in Phase 1 approximately Two Hundred Sixty-Five Million Dollars (\$265,000,000) in new investment by the company, composed of updates to the existing facilities, 60,000 square feet of support space, construction of 10 new sound stages, a 120,000 square foot office building, mill buildings, training center and post-production spaces. Post-production includes, editing, sound mixing, coloring, Foley (sounds for shoe steps, glass breaking, rain, etc.), dubbing, laying soundtrack and more. Additional parking and a backlot area also are included. The initial One Hundred Fifty Million Dollars (\$150,000,000) will cover the land purchase, improvements to the existing facility, the office building, training center and post-production area, as well as the parking and backlot.

Netflix proposes to include in Phase 2 approximately Two Hundred Thirty-Five Million Dollars (\$235,000,000) in capital expenditures to develop a 50,000 square foot special effects warehouse, wardrobe suites, a commissary, flex buildings for production support, and indoor and outdoor water tanks. The company estimates the larger outdoor water tank will equate to the size of two Olympic-sized swimming pools. It takes 660,000 gallons of water to fill an Olympic pool, similar to the size of the City's Westside Aquatic Center. That equates to 1,808 gallons of daily use for one pool, or 3,616 gallons for two. In contrast, a large golf course absorbs one million gallons per

day. So while the use of a water tank in the high desert sounds significant, the facts are this project will consume much less water than other regular water users. A large water user is often regarded as one that uses more than 50,000 gallons per day.

5. RENEWABLE ENERGY:

The Company will not create or produce renewable energy from the facilities. The company intends to incorporate appropriate energy efficient and low-flow water devices throughout the operation of the various campus facilities as appropriate.

The company's website cites their commitment to renewable energy. Netflix has invested in renewable energy projects that span 15 U.S. states and 20 countries. In 2019, they reported that 100% of their estimated direct and indirect non-renewable power source use was matched with renewable energy certificates and carbon offsets.

6. DEMOLITION:

The project does not involve demolition of viable buildings.

7. RELOCATION:

The project does not require the relocation of individuals or businesses.

III. ECONOMIC BENEFITS

1. COMPETITION:

Would the project be in competition with existing business or would industrial revenue bonds give one project an inequitable advantage over competitors using conventional financing?

There is no actual rival competition in the region, as all studios benefit from having added stages, office and mill space, backlots, etc., because they can utilize each other's facilities when available.

As occurred after the original purchase of Albuquerque Studios, I-25 Studios will benefit from overflow production. NBCUniversal will not be affected because they are using their facility for their own projects. Also, NBCUniversal received government support when developing their studio project. While I-25 Studios did not receive direct financial assistance for studio development, their current building and real property site was originally constructed utilizing industrial revenue bonds.

2. JOBS:

Will the project create a substantial number of new jobs? Are the job categories and phasing clearly given?

Note: This Project and industry is different in its calculations of jobs and benefits from some other projects we have reviewed recently due to the nature of the film and television production industry. The commitment to production spending is the benchmark used in evaluating and measuring

performance for film and television projects, and not just the direct jobs created and maintained by any one company. The State Economic Development Department calculates that the production spend for the Netflix Project could lead up to 994 new jobs. Furthermore, given the nature of the film production industry, the number of people directly and indirectly employed over the course of the year will be much more significant. It is important to note that not all of these jobs last for 12 months. It is an industry where daily jobs average from 8-16 hours per day, with the norm being in the 12-14 hour a day schedule. TV productions will generally last for 7-8 months and then break. A positive aspect about the Netflix Project is that it is going to lead to more steady employment for Albuquerque and New Mexico film crews because the company is committed to make multi-million dollar investments with its own and other productions every year for another thirteen years.

This has led to the development of both direct and indirect film industry businesses and jobs. The majority of crew members are technical trade workers who hold positions in set, electric, grip and construction departments and typically make a higher average wage than that of similar occupations in other industries. The film industry builds solid middle class jobs where carpenters can earn \$25/hr instead of \$18/hr in other industries, painters can earn \$28/hr instead of \$16/hr, and tailors and dressmakers earn \$25/hr instead of \$11/hr.

The capital investment and workforce programs are in conjunction with the additional One Billion Dollars (\$1,000,000,000) in production spend over the initial commitment of One Billion Dollars (\$1,000,000,000). Netflix commits to a Direct Spend (on its own productions) of at least \$1.2 billion, and \$800 million in Direct and/or Indirect Spend (leasing the facility to other production companies), for a total of Two Billion (\$2,000,000,000) in Direct and Indirect film productions (\$1.2 billion of that generated locally at Albuquerque Studios).

The impact of the film and television industry also extends beyond the crew. Netflix estimates that approximately 30% of production spending goes into goods and services, with 70% spent locally. That means the One Billion (\$1,000,000,000) of production spending can be expected to generate about \$210 million spent on local goods and services. That includes businesses such as local lumber, glass and paint stores, hotels, food vendors and caterers, restaurants, dry cleaners, local security companies and insurance companies. The production companies pay local office owners and home-owners location rental fees and often lease warehouses, parking lots and City buildings. The overall economic impact is experienced throughout the community

The salaries for the jobs in the industry profiled meet or exceed the average for similar positions within the community. According to data from the State's film office:

- a) Crew: 4-5 Projects/year. Average crew size: 200. Average salary example \$47,600 (prepared by the New Mexico Economic Development Department utilizing actual data from multiple kinds of film/media production projects in recent years)

In addition, Netflix has committed to develop a film training program in conjunction with New Mexico academic institutions. Netflix will provide \$500,000 annually for workforce development programs for New Mexicans until the training facility is fully operational. The training facility is intended to be used by New Mexicans to gain the skills necessary to work in the industry. If Netflix fails to achieve 70% of the trainees with permanent New Mexico addresses, they will provide \$250,000 annually to the New Mexico Film Office to support additional training programs for New Mexicans.

An important part of this project is the development of an indigenous film production training program. Netflix will commit to partnering and supporting training and workforce development programs with New Mexico-based organizations and institutions in order to support Native content creators and filmmakers who are members of recognized tribes or pueblos of New Mexico. The partnership/support will be modeled after, but not limited by, Netflix’s current partnership with ImagiNATIVE in Canada.

b) Management positions (information provided from Netflix):

Title	Estimated Base Salary
Tech Operations	
Site Support	\$125,000
Supervisor	\$100,000
Security Manager	\$ 65,000
Facilities Tech	\$ 60,000
Stage Manager	\$ 60,000
Stage Manager	\$ 50,000
Stage Manager	\$ 45,000
Receptionist	\$ 40,000
Studio Admin	\$ 35,000
Mailroom	\$ 30,000

- 1) What percentage of the permanent new jobs is expected to be filled by current Albuquerque area residents, as opposed to people relocated from elsewhere?
80% -90%
- 2) Will jobs benefit low and moderate income residents?
Yes
- 3) Will the jobs meet or exceed median wages for the industry within the community?
Yes
- 4) Will the jobs match skills of current city residents?
Yes
- 5) Will new employees be trained to fill the positions?
Yes
- 6) What stated advancement opportunities are there?
Crew advancement (e.g., 3rd grip, 2nd grip, key grip)
- 7) Will “Job Training Incentive Program” or other job training programs be used?
Yes, FCAP
- 8) Will at least 50% of health insurance premiums be covered for employees?
Yes for current employees and crew coverage is under union health and pension plan. Netflix also covers more than 50% of the cost for its own employees

3. LOCAL PURCHASES:

Netflix has stated that on average for productions, for every \$100 million spent on physical production, approximately 30% is spent on goods and services, of which 70% is local. This includes a full range of products and services such as hotels, car rentals, dry cleaning, florists, rentals from antique shops, restaurants, gift shops, home purchases, ski rentals, office supplies, furniture companies, postal and other package delivery services, lumber and home improvement products, pharmacies and grocery stores, jewelry stores, breweries and wineries, and many, many more. That equates to \$210 million in additional spending on local goods and services related to the production spend.

IV. PROJECT FEASIBILITY

1. COST/ FEASIBILITY/ FINANCING:

(Eligible LEDA project assistance is found in the definition of an “economic development project” contained in the Local Economic Development Act (5-10-3 NMSA 1978), which specifies that the direct or indirect assistance may include “the purchase, lease, grant, construction, reconstruction, improvement, or other acquisition or conveyance of land, buildings, or other infrastructure...” among other items.) LEDA funds may not be used to purchase equipment.

Upon completion of the project, the estimated appraised value of the Facilities is anticipated to be no less than the cost of the Facilities. The investment by the Company is not anticipated to materially change the appraised value of the real property.

Netflix is planning to invest \$150 million to \$500 million to purchase and fully develop the property. They can firmly commit to \$150 million at this time. (A discussion of industrial revenue bonds is contained in companion documents.) Netflix has requested \$1,000,000 from the City’s Local Economic Development Act fund to assist with these costs, along with \$6,000,000 of “in-kind” contributions for property development and infrastructure. The State Economic Development Department proposes to provide \$17,000,000 in State Local Economic Development Act funds, with the City acting as fiscal agent for the State funds. The State transaction is not under review as part of this process.

Additionally, Netflix is committed to \$1.2 billion in Direct Spend in New Mexico on television and film productions, and another \$800 million in Direct and/or Indirect Spend prior to December 31, 2033.

The public funds will be disbursed under the terms of the PPA. The proposal is for the City and State funds to cover a portion of the cost to purchase and develop the property and facilities on a reimbursable basis. Separate accounts will be set up for the City and State funds. The funds previously approved and still remaining in accounts will be transferred and the old accounts will be closed.

City funding is to be disbursed as follows: 1) The City has delivered \$3,000,000 upon Netflix’s acquisition of Albuquerque Studios; 2) \$1,500,000 to be delivered upon Netflix’s satisfaction of \$600,000,000 in Direct Spend from funds from the initial project; 3) \$2,000,000 “in-kind” contributions delivered upon Netflix’s acquisition of approximately 170 acres of real property located at Mesa Del Sol in Albuquerque; 4) \$1,000,000 delivered upon Netflix’s \$100,000,000 in

capital expenditures at the Facilities, including construction of a post-production facility; and 5) \$4,000,000 “in-kind” contributions for infrastructure and development costs after private investment of \$8,000,000 in infrastructure improvements related to the Project.

The City anticipates that the State Contribution of up to \$27,000,000 will be delivered to the City as Fiscal Agent for subsequent disbursement to Netflix in up to eight allocations based on Netflix’s satisfaction of target objectives as set forth herein. The City has previously delivered \$6,000,000 of State funds, as Fiscal Agent, to Netflix upon the completed acquisition of Albuquerque Studios. The City will submit an invoice to the State and request transfer of the State funds. Upon receipt, the City will deposit the State Contribution in a separate account established in connection with the Project, as required by law. If, and only if, the City receives the State Contribution, the City will disburse the remaining State Contribution to Netflix in the following manner:

A. \$1,000,000 delivered after full-execution of the PPA for reimbursement for infrastructure improvements related to the Facilities. Infrastructure to include, roads, utility improvements and drainage;

B. \$2,500,000 delivered upon Netflix achieving a total of \$300,000,000 in Direct Spend paid against, and invoiced for, eligible LEDA expenditures as provided in Section 6 of the PPA;

C. \$1,500,000 delivered upon Netflix achieving a total of \$600,000,000 in Direct Spend paid against, and invoiced for, eligible LEDA expenditures as outlined in Section 6 of the PPA, and making \$2,500,000 in capital improvements to the Facilities. “Capital Improvements” shall mean improvements that expand the Facilities, extend the Facilities useful life, increase production capabilities at the Facilities, or otherwise directly improve the Facilities in furtherance of the Project, and shall not include regular maintenance or acquisition of equipment;

D. \$3,000,000 delivered upon Netflix’s acquisition of approximately 170 acres of real property located at Mesa del Sol in Albuquerque;

E. \$5,000,000 delivered upon Netflix making \$50,000,000 in capital expenditures to the Facilities, achieving \$600,000,000 in Direct Spend and/or Indirect Spend, and development of a mutually acceptable training program;

F. \$3,000,000 delivered upon Netflix achieving a cumulative total of \$100,000,000 in capital expenditures at the Facilities including construction of a post-production facility;

G. \$3,000,000 delivered upon Netflix achieving a cumulative total of \$150,000,000 in capital expenditures at the Facilities and \$1,200,000,000 in Direct Spend and or Indirect Spend; and

H. \$2,000,000 delivered upon Netflix’s satisfaction of \$800,000,000 in Direct Spend in New Mexico.

Funding is subject to City Council approval. Netflix is responsible for their own and the City’s fees related to the LEDA applications and associated legal or other administrative fees, including the fiscal impact analysis.

2. DEVELOPER'S RECORD:

According to Forbes, Netflix, Inc. operates as an Internet subscription service company, which provides subscription service streaming movies and TV episodes over the Internet and sending DVDs by mail. Netflix is the world's leading internet entertainment service with over 190 million memberships in 190 countries. The company operates its business through the following segments: domestic streaming, international streaming and domestic DVD. Netflix obtains content from various studios and other content providers through fixed-fee licenses, revenue sharing agreements and direct purchases. It markets its service through various channels, including online advertising, broad-based media, such as television and radio, as well as various partnerships. It produces and distributes a wide variety of TV series, documentaries, and feature films across a wide variety of genres and languages. Marc Randolph and Wilmot Reed Hastings Jr. founded Netflix on August 29, 1997 and the Company is headquartered in Los Gatos, CA. The Site Director has not been determined at this time.

Based on the description given in the project plan, management appears to be qualified to manage the project.

V. FISCAL IMPACT ANALYSIS

This Project includes an impact analysis prepared by BBER as required given the project is a recipient of City funds.

The fiscal analysis looks at the direct financial impact for a major development, such as construction hard costs for bricks, lumber and other building items, as well as the labor, design and engineering costs. It also accounts for purchases for local goods and services, utility costs, and employment salaries and benefits. There are also indirect financial benefits from employees' expenditures, and induced gains from businesses that benefit from a project like Netflix and their expenditures. The fiscal analysis compares the taxes generated from anticipated economic activity against the value of the incentives provided to the company.

While different factors were considered in producing this report due to the unique nature of the film and television production industry, it is the same fundamental model that has been used on other LEDA projects that the Economic Development Department has brought to this Council over the years.

The Netflix project is estimated to have a net positive tax value increase to the City, thereby fulfilling the City's requirement of a net positive tax impact within ten years.

VI. PROJECT PARTICIPATION AGREEMENT

Pursuant to the Local Economic Development Act, Sections 5-10-1 to 5-10-13 NMSA 1978 ("LEDA"), the City adopted Ordinance No. F/S 04-10 (the "LEDA Ordinance"), approving an economic development plan for the City and authorizing the City to consider applications for economic development assistance. The Ordinance calls for the preparation and approval of a Project Participation Agreement, which is the formal document memorializing the contributions and obligations of all parties in the LEDA project. The agreement must clearly state the following items:

- a) The economic development goals of the project;
- b) The contributions of the City and the qualifying entity;
- c) The specific measurable objectives upon which the performance review will be based;
- d) A schedule for project development and goal attainment;
- e) The security being offered for the City's investment;
- f) The procedures by which a project may be terminated and the City's investment recovered; and,
- g) The time period for which the City shall retain an interest in the project. Each project agreement shall have a "sunset" clause after which the City shall relinquish interest in and oversight of the project.

Each project participation agreement shall be adopted as an ordinance by the City Council at a public hearing.

1. COMPANY CONTRIBUTION:

The PPA states that, in exchange for certain LEDA assistance described below, Netflix will undertake and complete a certain project inclusive of the following elements (the "Project"):

- A. The acquisition and improvement of approximately 170 acres at Mesa del Sol in Albuquerque;
- B. Commitment to maintain and operate the Facilities for a minimum of thirteen (13) years;
- C. Commitment for \$1,200,000,000 in Direct Spend monies (i.e. monies flowing from Netflix directly into in-house productions, acquisitions, and/or the production of Netflix-licensed content within the State) related to Netflix productions in New Mexico on or before December 31, 2033 and an additional \$800,000,000 in Direct Spend and/or Indirect Spend monies (i.e. monies flowing from other productions filming at the Facilities that Netflix does not directly produce, acquire or license, but that are made possible through the management, improvement, expansion and leasing of the Facilities and its capabilities to third parties) related to the Facilities on or before December 31, 2033;
- D. Commitment to ensure the Facilities generate a minimum of \$75,000,000 annually in Direct Spend and/or Indirect Spend measured annually on December 31 in years 2021 through 2026;
- E. Commitment to ensure the Facilities generate a minimum of \$100,000,000 annually in Direct Spend and/or Indirect Spend measured annually on December 31 in years 2027 through 2033;
- F. Commitment for \$150,000,000 in capital expenditures, as provided herein, including the construction of a training center, visual effects studio and post-production facilities, at the Facilities on or before December 31, 2027;
- G. Commitment to partnering and supporting training and workforce development programs with New Mexico-based organizations and/or institutions, including but not

limited to, support for Native content creators and filmmakers who are members of recognized tribes or pueblos of New Mexico;

H. Commitment to establish a training facility similar to Screen Skills and the Georgia Film Academy, and provide at least \$500,000 annually for the 13-year term of this 2020 PPA to fund training and workforce development programs for New Mexico residents until the Netflix training facility is fully operational;

I. Commitment to include a screen credit with a State logo in all productions in which a film production tax credit is claimed acknowledging that the production was filmed in the State of New Mexico;

J. Commitment to include a screen credit with a City logo, and acknowledgement of the City, in all productions filmed within the City;

2. PUBLIC SECTOR PARTICIPATION:

The State Contributions; Procedure for Disbursement of the State Contributions.

The City anticipates that the State Contribution of up to \$27,000,000 will be delivered to the City, acting as Fiscal Agent, for subsequent disbursement to Netflix in up to eight allocations, based on Netflix's satisfaction of target objectives as set forth herein. The City has previously delivered \$6,000,000 of the State's LEDA funds, as Fiscal Agent, to Netflix upon the completed acquisition of the Existing Facilities. The City will submit an invoice to the State and request transfer of the State funds. Upon receipt, the City will deposit the State Contribution in a separate account established in connection with the Project, as required by law. If, and only if, the City receives the State Contribution, the City will disburse the State Contribution to Netflix in the manner set forth below. Upon the effective date of this 2020 PPA, the City shall transfer all moneys in accounts created under the 2019 PPA to the accounts created under this 2020 PPA and shall close the former accounts created under the 2019 PPA.

- A. \$1,000,000 delivered after full-execution of the PPA for reimbursement for infrastructure improvements related to the Facilities. Infrastructure to include, roads, utility improvements and drainage.
- B. \$2,500,000 delivered upon Netflix achieving a total of \$300,000,000 in Direct Spend paid against, and invoiced for, eligible LEDA expenditures as provided in Section 6 of the PPA;
- C. \$1,500,000 delivered upon Netflix achieving a total of \$600,000,000 in Direct Spend paid against, and invoiced for, eligible LEDA expenditures as outlined in Section 6 of the PPA, and making \$2,500,000 in capital improvements to the Facilities. "Capital Improvements" shall mean improvements that expand the Facilities, extend the Facilities useful life, increase production capabilities at the Facilities, or otherwise directly improve the Facilities in furtherance of the Project, and shall not include regular maintenance or acquisition of equipment;
- D. \$3,000,000 delivered upon Netflix's acquisition of approximately 170 acres of real property located at Mesa del Sol in Albuquerque;

- E. \$5,000,000 delivered upon Netflix making \$50,000,000 in capital expenditures to the Facilities, achieving \$600,000,000 in Direct Spend and/or Indirect Spend, and development of a mutually acceptable training program;
- F. \$3,000,000 delivered upon Netflix achieving a cumulative total of \$100,000,000 in capital expenditures at the Facilities including construction of a post-production facility;
- G. \$3,000,000 delivered upon Netflix achieving a cumulative total of \$150,000,000 in capital expenditures at the Facilities and \$1,200,000,000 in Direct Spend and or Indirect Spend; and
- H. \$2,000,000 delivered upon Netflix's satisfaction of \$800,000,000 in Direct Spend in New Mexico.

The City Contribution.

Pursuant to the 2019 Project Ordinance, the 2020 Project Ordinance and the LEDA Ordinance, the City has committed an amount of up to \$11,500,000 in connection with the Project. The City has previously delivered \$3,000,000 to Netflix upon the completed acquisition of the Existing Facilities. As required by the LEDA Ordinance, the City will deposit the proceeds of the City Contribution into a clearly identified separate account, which account will be subject to an annual independent audit. Any existing funds from the 2019 PPA shall be transferred to accounts created under the 2020 PPA and the 2019 PPA accounts shall be closed. The City will disburse the City Contribution to Netflix in the following manner:

- A. \$1,500,000 delivered upon Netflix's satisfaction of \$600,000,000 in Direct Spend in New Mexico;
- B. \$2,000,000 of "in-kind" contributions related to development costs and infrastructure to Netflix upon Netflix's acquisition of approximately 170 acres of real property located at Mesa del Sol in Albuquerque;
- C. \$1,000,000 delivered upon Netflix's \$100,000,000 in capital expenditures at the Facilities, including construction of a post-production facility; and
- D. \$4,000,000 of "in-kind" contributions related to development costs and infrastructure upon private investment of \$8,000,000 for infrastructure related to the Facilities.

3. TIME COMMITMENT:

Netflix will continue to occupy the Facilities and diligently conduct operations at the Facilities in the manner contemplated by this Agreement at least through December 31, 2033.

4. USE OF PUBLIC CONTRIBUTIONS:

Netflix will be eligible for reimbursement of up to \$29,500,000 in City and State Contributions, in addition to previously provided \$6,000,000 from the State and \$3,000,000 from the City, for costs

of the acquisition, construction and improvements, and other eligible expenditures under LEDA and the LEDA Ordinance, related to the Facilities actually incurred and paid for after the City Council’s adoption of the 2019 Project Ordinance and 2020 Project Ordinance, subject to the receipt by the City of the State Contribution. The City will make payment to Netflix following submission of documentation satisfactory to the City evidencing payment of expenses with respect to the Project, and meeting the performance targets set forth in Sections 3 and 4 herein.

Project funds shall not be used to reimburse expenses from any individuals or company that has a financial interest in Netflix or its employees.

5. CLAWBACKS:

- A. Performance Clawback Requirements. If on December 31, 2023, Netflix’s Direct Spend and Indirect Spend is less than 90% of the \$600,000,000 performance target as set forth herein, Netflix will pay a penalty equal to the percentage shortfall multiplied by the cumulative total State LEDA funds and City LEDA funds distributed to Netflix at that time. If on December 31, 2028, Netflix’s Direct Spend is not at least 90% of \$800,000,000 and combined Direct Spend and Indirect Spend is not at least 90% of \$1,000,000,000, Netflix will pay a penalty equal to the percentage shortfall multiplied by the cumulative total of the LEDA funds distributed. If by December 31, 2033 Netflix's combined Direct Spend and Indirect Spend is less than 90% of \$2,000,000,000 and Netflix's Direct Spend is not at least 90% of \$1,200,000,000. Netflix will pay a penalty equal to the percentage of shortfall multiplied by the cumulative total of LEDA Funds distributed at that time.
- B. Waiver of Performance Clawback. If at any time after December 31, 20__, Netflix reaches a total of \$_____ in Direct Spend, the State will waive any and all clawbacks related to performance targets with respect to the State Contribution.
- C. Facility Closure Clawback. Should Netflix cease operation, or notify the City of its intent to cease operation, of the Facility (i.e., cease to conduct operations at the Facility) before December 31, 2033, Netflix shall, within ninety (90) days of the cessation of operations, pay to the City, in cash, an amount equal to a specified percentage of the amount of the City Contribution and State Contribution paid pursuant to this Agreement, with the specific percentage based on the date of cessation of operations in accordance with the following table:

Date of Cessation of Operations	Percent of Public Contributions to be Repaid
On or before December 31, 2025	100%
From January 1, 2026 through December 31, 2028	60%
From January 1, 2029 through December 31, 2033	25%

Winding down of the Company's operations at the Facility in preparation for a cessation of operations may be considered a cessation of operations, and any such determination will be made by the City in its sole and reasonable discretion.

- D. Waiver of Facility Closure Clawback. If at any time after December 31, 2028, Netflix reaches a total of \$2,000,000,000 in Direct Spend and Indirect Spend, the City will waive all clawbacks related to closure of the Facility. If at any time after December 31, 2028, Netflix reaches a total of \$1.2 billion in Direct Spend, the State will waive any and all clawbacks related to closure of the Facility with respect to the State Contribution.
- E. Maximum Clawback; Unpaid Payments. Notwithstanding anything herein to the contrary, the maximum aggregate clawback payable hereunder will be \$38,500,000, not including interest. Any clawbacks not paid when due shall bear interest at the Prime Rate plus 2% per annum from the due date until paid. "Prime Rate" means the U.S. prime rate as reported from time to time in *The Wall Street Journal* in its Bonds, Rates and Yields table, or successor table.
- F. Change in Business Climate. Notwithstanding the foregoing, if Netflix fails to achieve the performance targets as identified in Section 7.A of the PPA, or a Facility closure occurs as provided in Section 7.C of the PPA, and believes Business Climate Changes were the cause for its failure to meet such requirements, Netflix will so advise the City in writing describing the Business Climate Changes in detail. "Business Climate Changes" mean substantial changes outside of the control of Netflix, in the segment of the industry in which Netflix operates, that cause a significant decrease in the amount of production Netflix is able to achieve. It is also contingent upon continuation of the State's New Mexico Film Tax Credit Program at a level of no less than \$50,000,000 per fiscal year. Per statute, if the audiovisual project is intended for commercial exploitation and exhibition, it is eligible to receive a 25% refundable tax credit on direct and post-production expenditures rendered in-state and subject to state taxation. Since 2013, an additional 5% credit, for a total of 30%, may apply towards either (1) direct production expenditures for qualifying television series; or (2) payments to off-camera residents for services during production in New Mexico if a production utilizes a qualifying production facility for a minimum of 10 or 15 days of principal photography. (Days required are determined by total New Mexico budget.) The shifting of Netflix's operations to another Project, whether within or outside of Albuquerque, will not constitute a Business Climate Change. If the City determines that Business Climate Changes affect Netflix's ability to achieve the required performance targets or results in the closure of the Facility, after consultation with and concurrence of the State EDD, it may waive or modify the clawback. Any clawback due will be paid within 15 days after the City notifies Netflix of its decision.

6. SECURITY:

To secure the performance of its obligations under this Agreement, Netflix has provided the City an acceptable form of security in favor of the City.

7. USE OF PUBLIC CONTRIBUTIONS:

Netflix will be eligible for reimbursement of up to \$29,500,000 in City and State Contributions, in addition to previously provided \$6,000,000 from the State and \$3,000,000 from the City, for costs of the acquisition, construction and improvements, and other eligible expenditures under LEDA and the LEDA Ordinance, related to the Facilities actually incurred and paid for subject to the receipt by the City of the State Contribution. The City will make payment to Netflix following submission of documentation satisfactory to the City evidencing payment of expenses with respect to the Project, and meeting the performance targets set forth in Sections 3 and 4 of the PPA.

Project funds shall not be used to reimburse expenses from any individuals or a company that has a financial interest in Netflix or its employees.

8. ANNUAL REPORTING REQUIRMENT, PERFORMANCE REVIEW AND TERMINATION:

Annually (beginning in 2022 for activities in 2020), on or before March 1 or other date specified by the City, Netflix will provide to the City data for the previous calendar year regarding its production performance and such other information necessary for the City or its independent contractor to determine whether Netflix has met its obligations under this 2020 PPA. Netflix shall provide data for both Direct Spend and Indirect Spend for the previous year and cumulative totals for the Project to date. As required by the LEDA Ordinance, the Project will be subject to an annual performance review conducted by City staff, which will evaluate whether the Project is attaining the goals and objectives set forth in Section 2 of this 2020 PPA. This review shall be presented to the City administration and the City Council. If the goals and objectives are not being attained, the City Council at a public hearing may terminate assistance to the Project by passage of an ordinance which terminates this 2020 PPA and specifies the disposition of all assets and obligations of the Project, after satisfying this 2020 PPA and all rights of the parties arising under this 2020 PPA through the date of such termination. In addition, pursuant to LEDA, the City may enact an ordinance terminating the LEDA Ordinance and dissolving or terminating any or all projects. In the event that the City terminates the LEDA Ordinance or this 2020 PPA, the City will specify the disposition of all assets and obligations of the Project after satisfying this 2020 PPA and all rights of the parties arising under this 2020 PPA through the date of such termination.

9. QUARTERLY REPORTING REQUIREMENTS TO STATE AND CITY:

Beginning with January 31, 2021 and continuing every January 31, April 30, July 31, and October 31, until completion of termination of the 2020 PPA, Netflix will report to the New Mexico Economic Development Department Film Office and the City Economic Development Department a minimum of their total direct spend for the immediate preceding quarter, their total spend for the immediate preceding quarter, their cumulative spend for the current year and their cumulative spend for this agreement. The New Mexico Film office may request additional information from Netflix for purposes related to the Film office and the completion of their duties.

FINDINGS:

1. LEDA-20-7 is a qualifying entity as defined by the State’s Local Economic Development Act and the City enabling legislation (F/S O-04-10, as amended); and
2. LEDA-20-7 would make positive substantive contributions to the local economy and community by growing and enhancing Albuquerque’s position as a significant center for film, television and media production, with a One Hundred Fifty Million Dollars (\$150,000,000) in private sector capital investment and an additional One Billion Dollars (\$1,000,000,000) in production spend; and
3. LEDA-20-7 would anchor the shared community vision of Mesa Del Sol as a major employment center for Albuquerque and comply with the adopted Comprehensive and Planned Community development requirements; and
4. LEDA 20-7 would make positive substantive contributions to the local economy and community by purchasing additional acreage and making additional renovations and improvements to the existing Netflix facilities at Mesa del Sol and developing a major television and film production campus; and
5. LEDA 20-7 would make additional positive contributions to the local economy by committing to operate in the community for at least thirteen years; and
6. LEDA-20-7 would have additional positive community impact through the development of a training program/center with institutions of higher education, and a focus on dedicating resources to develop production skills and capacity for indigenous people; and
7. LEDA 20-7 has demonstrated the financial capability to undertake and successfully manage the Project and will provide acceptable security; and
8. LEDA 20-7 would meet the LEDA evaluation criteria established by the City, comply with the adopted City plans and policies, meet community economic development priorities and objectives, and make a substantive contribution to the community.

STAFF RECOMMENDATION:

Based on the above findings, staff recommends approval of LEDA 2020-10 as proposed in the project plan application.

Deirdre M. Firth, Deputy Director
Economic Development Department