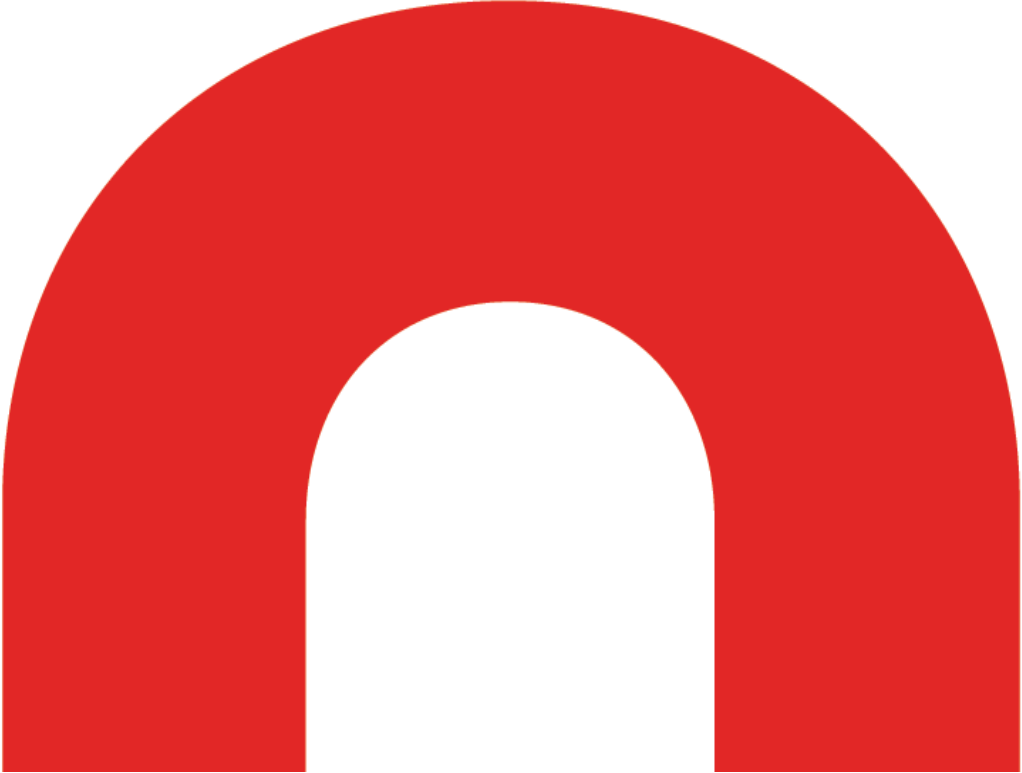


# 2023 STATE CAPITAL OUTLAY – NONPROFITS

Department of Municipal Development  
Capital Implementation Program



# CONTACTS & INTRODUCTION

- **Shawn Maden**  
CIP Strategic Program Mgr  
[SMaden@cabq.gov](mailto:SMaden@cabq.gov)  
505-768-3616
- **Mark Motsko**  
CIP Official  
[MMotsko@cabq.gov](mailto:MMotsko@cabq.gov)  
505-768-3832

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# PRESENTATION GOALS

- **Explain the Capital Outlay/State Grant process**
- **Background information**
- **City's Fiscal Agent process**
- **State's Online entry**

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# THE REALITY

- Obtaining funds from the State is a LONG process.
  - If you need funds between October 2023 and March 2024, your chances are virtually zero
  - April-Sept 2024 would be incredibly fast, and should not be expected
  - October 2024-March 2025 funding available is more reasonable
- These funds have use/implementation requirements imposed by the State that some organizations consider dealbreakers

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# WHAT IS CAPITAL OUTLAY?

- **“Capital Funds” is used unofficially as a catch-all term by public**
  - **Source and recipient determine applicable laws**
- **Large sums of funds intended for larger, long term purchases, such as renovations, construction, vehicles, freezers, etc.**
  - **Not operating funds or consumables**
  - **State Board of Finance is only approving non-severable equipment and furnishings for NPOs utilizing State Capital**
- **State minimum of \$10,000**

# THE 30,000' OVERVIEW

- **Apply for City to be your Fiscal Agent**
- **Enter Project online**
- **State Bill is passed**
- **State ensures project meets State Law and Anti-Donation clause before funds certified for release**
  - **Org & City work with State to get funding certified**
- **State gives City funds**
- **City submits Notice of Obligation**
- **City provides equipment requested by Org**
- **Org provides public services in lieu of rent/lease payments**

# KEY TAKEAWAYS

- **No project will receive any funding until the State Department of Finance & Administration (DFA) or State Board of Finance (SBoF) certifies that the project meets State law.**
  - **Due to the NM Constitution's Anti-Donation clause, meeting State law ALWAYS includes a Use Agreement/Contract with a City Department.**
- **Per State Law, your Organization cannot receive Capital funds. The City receives these funds and spends them on your behalf.**
  - **This means the City must use its own purchasing processes.**
- **CIP is the liaison between City and State regarding Capital funds. If CIP doesn't know about your project, it will take a very long time to obtain project funding.**
  - **We have 100-200 of these to process and track!**

# THINGS TO REMEMBER

- The City **WANTS** to help you acquire these funds quickly and get your project going.
- The rules we list are a non-exhaustive set of things that DFA/SBoF will ask you to ensure are met before they will certify funding.
- If DFA/SBoF denies funds to be released, or will not certify funds to be allocated due to concerns regarding potential Anti-donation clause violations or other State Law violations, even though funds are approved in the passage of the bill, the City cannot help you any further with that request.
- *Your Organization does not purchase anything. The City is provided funding by the State, and the City makes the purchases.*
- Organizations that request funds in the City's name as fiscal agent without official approval from CIP may be denied use of those funds.



- **Organization “KindFolks” uses the City as their Fiscal Agent to request \$1,500,000 in Capital Funds from the State “to furnish and equip a teen homeless shelter, including information technology, in Albuquerque in Bernalillo County”**
- **The bill passes, allocating KindFolks \$285,000. DFA/SBoF contacts the City for information to ensure State Law is met.**
- **KindFolks produces this information to the City, including a use agreement with the City’s Dept. of Family and Community Services (FCS) through the Department of Municipal Development (DMD).**
  - **This Agreement specifies that KindFolks will utilize City owned equipment in the operation a teen homeless shelter, and will provide services to the City in lieu of rent, as provided in their Contract. DFA/SBoF agrees and certifies the project.**
- **This money is released to the City. FCS then coordinates with KindFolks, purchases equipment, and pays City contracted companies for the necessary equipment using those funds. KindFolks then begins utilizing the equipment while providing the services specified in their Use Agreement.**

- Because the Department with which you have a use agreement makes all purchases, they must follow their own purchasing rules.
- You have 6 months from the sale of the bond to create “a substantial binding obligation to a third party to expend 5%” of the funding.
- 85% of the funds must be spent within 3 years of the sale of the bond, or all remaining funds revert back to the State.
- If DFA/SBoF has not released/certified your request by the end of the fiscal year 3 years later, the authorization for that project is automatically voided.
- All of these stipulations regarding timing are in the first 10 or so pages of the bill. Read Them!



# 2022-2023 TIMELINE - APPLICATIONS

- **Oct 20<sup>th</sup> – Capital Outlay Project Requests open for submission.**
- **Dec 28<sup>th</sup> 2022 5 p.m. – City’s Deadline for Fiscal Agent Applications to [smaden@cabq.gov](mailto:smaden@cabq.gov)**
- **Jan 12<sup>th</sup> 2023 3 p.m. – Deadline for Online Capital Outlay Request entry.**

# 2022-2023 TIMELINE - LEGISLATION

- **Mar 18<sup>th</sup> – Session Ends**
- **Apr 7<sup>th</sup> – Deadline for Governor action –  
may Line Item Veto**
- **Questionnaires and follow-up by DFA/SBoF**
- **Bond Sales – Typically June and December**
- **Sponsors and Legislators have a different  
set of Deadlines than we do.**

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# MAIN RULES

- **The Non-Profit Organization (NPO) must have an active Use Agreement/Contract with the City of Albuquerque before the project will be placed in the bond sale. These can take a year or more to complete!**
- **Any and all items procured with these funds belong to the City of Albuquerque, even after the expiration of the Use Agreement/Contract.**
- **All outlay funds/items/projects must be used in furtherance of the service contracted by the City of Albuquerque.**
- **Capital funds may only be used for the items/project/locations defined in the Legislation as passed.**

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# MAIN RULES CONTINUED

- **The State Board of Finance is currently only approving Equipment, Furnishings, and/or Vehicles for Non-Profit agencies.**
- **Equipment must be “severable” from the building and still completely usable to its intended function. Equipment that is designed and/or specified for the building will almost surely be denied by the State.**
  - **This means HVAC, Heaters, Boilers, Solar, etc. will not fly.**
  - **If the City cannot take the item and then effectively “plug and play” elsewhere, it will likely be considered a donation, and thus will not pass DFA/SBoF.**
  - **i.e. Built in/walk-in freezers - incredibly unlikely, free standing freezers - likely.**
- **Again, if DFA/SBoF deny the request, the City will no longer be able to assist you. We will not argue with the State on your behalf. If you wish to change the project to try and meet their concerns, we may continue to assist at our discretion.**

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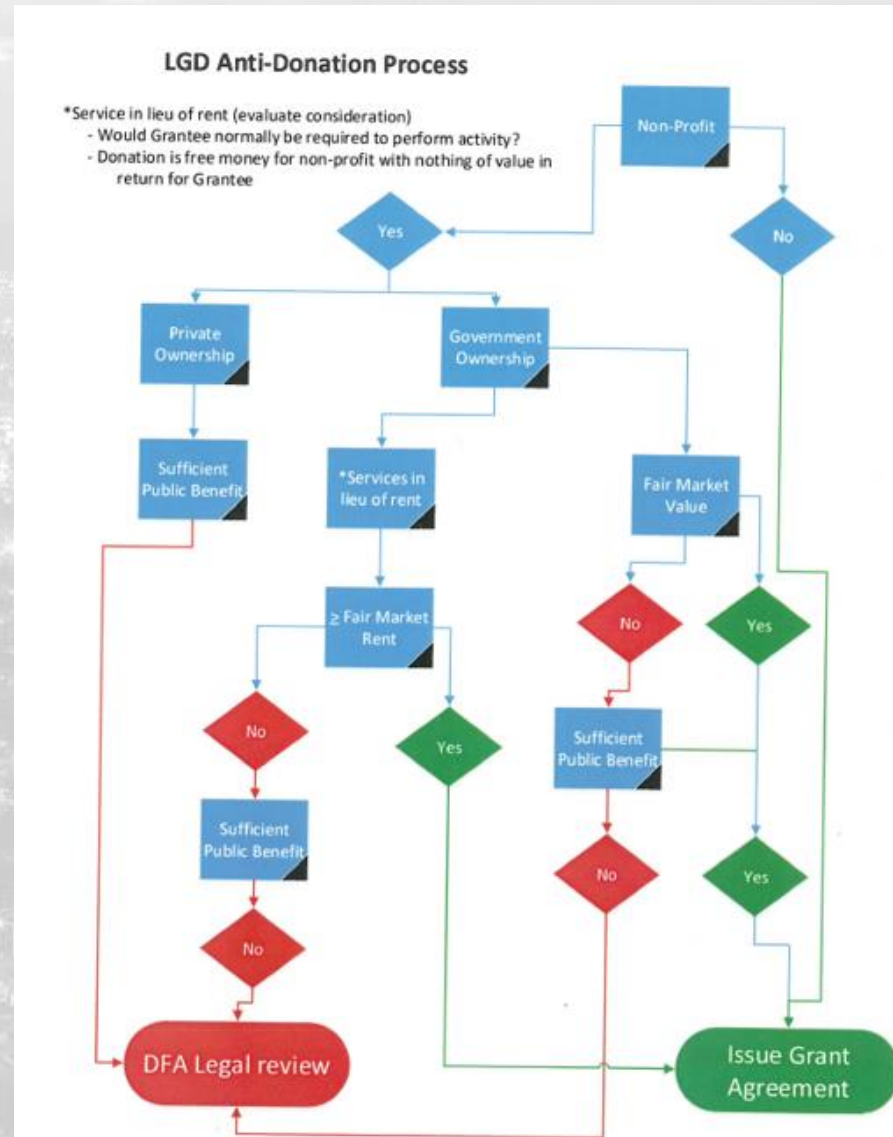


# PROCUREMENT & ANTI-DONATION

- **The two main hurdles to jump for purposes of the Use Agreement/Contract (on the City-side), are anti-donation and procurement.**
- **Procurement refers to the Rules the City has to follow in order to buy or procure services and goods.**
- **Anti-donation refers to the prohibition in the NM Constitution that prevents the government (including the City) from giving money or anything of value to any private entity – even a non-profit entity.**

# STATE ANTI-DONATION FLOWCHART

- This is a flowchart from the State outlining their process for determining Anti-Donation compliance.
- Notice the lack of a link leading from DFA Legal review to Issue Grant Agreement? That's not an omission: Legal review can be a long and complicated process.





# CITY FISCAL AGENT APPLICATION

- Can be found at <https://www.cabq.gov/municipaldevelopment/programs/state-capital-outlay-for-non-profits>
- Return by email to [smaden@cabq.gov](mailto:smaden@cabq.gov)
- Please use Subject Line: **2023-1 FA (your Org name)**
- City's Deadline to return to Shawn is 12/28/2022 5pm
- Applications are sent to the Director of the Department of Municipal Development for approval



Nonprofit Organization  
State Capital Outlay Request Packet  
2022 Legislative Session  
Required by City of Albuquerque

## City of Albuquerque Capital Outlay Initial Request Form

This application packet is required if your organization intends to pursue capital outlay funding from the 2022 New Mexico State Legislature involving the City of Albuquerque (City) as the fiscal agent.

If the City of Albuquerque accepts your application, your organization will need to complete a legislative capital outlay request form that is due at the beginning of the 2022 legislative session. (<https://www.nmlegis.gov/CapitalOutlayWeb/>).

Please note: The New Mexico Constitution "anti-donation" clause (Article IX, Section 14) prohibits governments from donating to private parties. To read this legislation, [click here](#).

**Complete this packet and submit it by December 30, 2021 by 5:00pm MST to:**  
Shawn Maden, Department of Municipal Development, City of Albuquerque  
P.O. Box 1293, One Civic Plaza NW, Room 7057 Albuquerque, NM 87103  
or by email: [smaden@cabq.gov](mailto:smaden@cabq.gov). Please use Subject Line: 2022-1 FA (your org name)

### Basic Information

Organization Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Primary Contact Name & Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

- Legislative Language used, this is the “Scope” of the project, not a project description
- Enter here exactly what you plan to enter on the State’s website, please!
- “to furnish, equip, and purchase vehicles for a teen homeless shelter, including information technology, ovens, and freezers”

*Project Information Form*

---

2022 Capital Outlay Request For information regarding Legislative Language, [click here.](#)

Amount: \$

Project Description and Purpose (legislative language request):

Does capital project have a master plan or cost estimate? Yes  No

**For Critical Information regarding the Fiscal Agent and Capital Outlay Request Process, see page 6**

# SCOPE VS. SCOPE OF SERVICES

- **The Scope of your project, as defined by the spending bill “legislative language”, is NOT the “Scope of Services” in your Use Agreement with the City.**
- **The Scope of your project defines what the Capital Outlay may legally be used for. This is what is placed in your City FA Application and the Online Capital Outlay Portal. This is also referred to as “allocation language”.**
  - **i.e. to purchase and equip hot food delivery trucks in ABQ in Bernalillo County**
  - **The City may deny any requests that we deem not legally permissible by your legislative “Scope”, even if DFA/SBoF release the funds.**
- **The Scope of Services in your Use Agreement is the description of the services that you will provide for the City in return for use of the equipment/facilities purchased by said Capital funds.**
  - **i.e. KindFolks shall shelter, feed, and support homeless teens, up to 5 at a time, at the rate of \$30/person/day for the Family and Community Services Department of the City of Albuquerque. Feeding shall be 3 hot meals, support shall be access to social services, behavioral health, and tutoring...**

- ALL previous Capital Outlay funding requests that have been signed into law by the Governor AND are still in process of being expended or approved.

Capital Outlay Item and Fiscal Year of Appropriation	Capital Outlay Value	Has approval by State of NM been received to start the purchase/project implementation? If yes, fill out the next two columns. If no, explain reason and still complete the last column.	Expiration Date of Appropriation	Amount expended to date
EX: E2402 – Explora STEM Phase 2	895,000	No, nonprofit is required to meet conditions as set by DFA/Attorney General's Office prior to receiving approval for funds to be dispersed to City.	6/30/2023	150,000

- Do not include projects/funding that have been completed.

- This is mostly self-explanatory, but here are a few things to know:

- Line 1 – *Leave Blank*
- Line 6 – *Albuquerque*
- Line 7 – *Albuquerque*
- Line 8 – *Albuquerque*
- Line 9 – *Albuquerque*
  - *Unless outside City limits, then Bernalillo County*

- Line 13 – This is the “Legislative language” Scope of your project

- to acquire, equip, furnish...in ABQ in Bernalillo County

- Line 14 – Purchase

1. Infrastructure Capital Improvement Plan (ICIP) five digit project ID # (If you do not have a project #, begin your request with Item #2. See instructions.)

2. Contact Name\*

3. Contact Title\*

4. Contact Phone\*

5. Contact Email\*

6. Fiscal Agent\* (Entity to receive funding. See instructions.) Only the state or political subdivisions of the state are eligible to receive funding.

7. Entity requesting funding\* (If different from fiscal agent, type in the requesting entity name. See instructions.)

8. Entity that will own the project upon completion\* (If different from fiscal agent, type in the owner's name. See instructions.)

9. Location\* (City, town, district, school district, chapter, pueblo. See instructions.)

10. County in which the project will be located\* (The county field will autofill from the fiscal agent field. If the project is located in a different county, select the county from the dropdown menu.)

11. Total amount requested for project this legislative session\* (Enter the total amount requested from the legislature as a whole; NOT the amount requested from an individual legislator. See instructions.)

12. The amount requested this session will: \*

13. BRIEF project description\* (Legislative language - See instructions.)

14. Project type for title\*

# ONLINE APPLICATION CONTINUED

- **Line 22 – You will only utilize the Equipment/Vehicles section**
- **Line 24 – You will only use Line B**
  - **Use their instructions!**

17. Have capital outlay appropriations been made for this project in previous years?\*

18. Has a Local Government Planning Fund grant been awarded for this project?\*

19. Is the total project cost based on cost estimates provided by a contractor, engineer, architect or other qualified professional?\*

20. Will the amount requested this session be used to match federal funds?\*

21. Have easements, rights of way, land or property required to begin construction been acquired?\*

22. Project Budget\*([See instructions.](#))

Category	Funded to date/secured	Not yet funded	Total
Acquisition	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text"/>
Plan and design	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text"/>
Construction	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text"/>
Equipment/Vehicles	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text"/>
Other	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text"/>
Total	<input type="text"/>	<input type="text"/>	<input type="text"/>

[Calculate totals](#)

23. List other funding sources and \$ amounts, including local funding, committed to this project:(for example: USDA \$25,000; Quay County-\$10,000)

24. Complete ONE of the following four fields to best describe the focus of your project\*([See instructions.](#))

A.

Name/description of facility/system (Be specific and use the standard abbreviations included in the instructions. [See instructions.](#))

B.

Enter a description of the vehicle equipment or land to be purchased.

C.

Name of road ([See instructions.](#) - name the rd/st/blvd accurately and use the appropriate abbreviations)

D.

Name of school- Pre-K - 12 schools only ([See instructions.](#) - name the school accurately and use the appropriate abbreviations)

1. For pre-K - 12 school projects

Select a project type

2. If this is a charter school project, please select how the school is chartered

# EMAIL THE CITY

- When asked to print the summary shown, please download as PDF and send it to [smaden@cabq.gov](mailto:smaden@cabq.gov) using the same subject line 2023-1 FA (*your Org name*)

- At a minimum, please email me the LCS Project ID number. This makes it much easier for me to track, as there are typically over 2000 entries in the bill.

## Capital Outlay Web Project Summary



LCS PROJECT ID: 1465

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Total Amount Requested this Legislative Session: \$650,000

Albuquerque requests \$650,000 for the following project:

to purchase and replace emergency apparatus, emergency response vehicles, service vehicles, and support vehicles, including but not limited to; fire engines, ladder trucks, ambulances, light rescues, HazMat response vehicles, Heavy Technical Rescue squads, wildland pumpers and brush trucks in Albuqu.

Project Location: Albuquerque

County: Bernalillo

Fiscal Agent: Albuquerque



# DFA/SBOF QUESTIONNAIRES

- They will follow up with additional questions in CPMS – The City handles these.
- Prior to project inclusion for Bond Sale, DFA/SBoF will look into each project to assess compliance. Projects not meeting requirements will not be included in Bond Sales until all proof is provided.
  - This ALWAYS includes Use Agreements/Contracts with City.

Funding Source (Established and Anticipated)	Amount (enter digits only - no \$ or commas)	Amount Secured? Y/N	Expended to Date (enter digits only - no \$ or commas)	Date Received or Will Receive
		Choose Yes or No ▾	0	
		Choose Yes or No ▾	0	
		Choose Yes or No ▾	0	
		Choose Yes or No ▾	0	
2.d Are the proceeds being requested replacing another funding source? (e.g., operating budget, other bond proceeds)				Choose Yes or No ▾
IF NO: Skip to Question 2.f.				
2.e IF YES: What is the funding source being replaced?				
2.f Has the project, or any portion of it, been included in one or more prior State (not local) bond sales?				Choose Yes or No ▾
IF NO: Skip to Question 2.k.				
IF YES: Complete the following Questions 2.g through 2.j, and continue to Question 2.k.				
2.g What was the year of the bond sale?				
2.h Were any of the proceeds unspent as of October 18, 2021?				Choose Yes or No ▾
IF NO: Skip to Question 2.k.				
IF YES: Complete the following Questions 2.g through 2.j, and continue to Question 2.k.				
2.i How much of the proceeds, if any, were unspent as of October 18, 2021? (Answer '\$0' if no unspent proceeds.)				0
2.j When do you expect (month and year) to spend the remaining unspent proceeds?				
2.k CONFIRM that you will continue to monitor changes to the intended use or disposition of the real property or equipment financed with the proceeds for the entire time the bonds are outstanding.				Not Confirmed ▾
2.l CONFIRM that you will immediately inform the State Board of Finance if there is a change in use or disposition.				Not Confirmed ▾
3 Project Readiness, Priority, Spend-Down of Proceeds, and Contingencies				
Projects must meet certain readiness and spend-down criteria in order to be included in this sale. If the project is not ready and/or funds cannot be expended in time, it may be eligible to be included in a future bond sale. You MUST have a high degree of confidence in the readiness of the project.				
3.a Has the project already begun or has the purchase of real property or equipment already occurred?				Choose Yes or No ▾
BEFORE YOU ANSWER-If you expect to start the project upon receipt of the funds, the start date should not be prior to January 2022. Bonds will be sold in December 2021, and grant agreements will be issued following the sale.				
3.b IF NO: When will it begin (month and year)? Now skip to Question 3.e.				
IF YES: Complete the following Questions 3.c and 3.d, then continue to 3.e.				
3.c When did the project begin OR when was the equipment purchased?				



# THE WAIT, A.K.A “WHERE’S MY MONEY”

- **Even if the bill passes permitting your Organization to receive Capital funding, those funds WILL NOT be released until DFA/SBoF ensures the project meets State Law**
  - **You will need to be proactive, but patient, regarding the process of obtaining funding, especially with the upcoming session**
- **Funds are approved for sale in an upcoming bond by DFA/SBoF after their requirements are met**
- **Anti-donation refers to the prohibition in the NM Constitution that prevents the government (including the City) from giving money or anything of value to any private entity – even a non-profit entity**
- **Notices of Obligation are required - these add to the time, and may further limit what can be done**

# ART IN PUBLIC PLACES 1%

- **1% for Art in Public Places (AIPP) is automatically deducted by State Law.**
- **Amounts allocated by and listed in the passage of the bill DO NOT take this amount into account, the 1% is taken from this amount.**
  - e.g. If you are sponsored for \$120,000 in the final bill, the total amount available for your project will be \$118,800.

12. one hundred twenty thousand dollars (\$120,000)  
to plan, design and construct improvements to the buildings  
and grounds at the [REDACTED] in  
[REDACTED] county;

- **The City has no control over this, it is removed from all our projects as well, including non-State Capital such as the City's General Obligation Bond program.**

**QUESTIONS?**

**Thank you for attending!**



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