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STATE OF NEW MEXICO  
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September 16, 2022

Mark Motsko  
CIP Official, City of Albuquerque  
1 Civic Plaza NW #7057  
Albuquerque, NM 87102  
RE: Project No. 21-F2583 ABQ Recreational Facilities Upgrades:  
Request for Reimbursement #1

Dear Mr. Motsko:

The Department of Finance & Administration (“DFA”)/Local Government Division (“LGD”) has received and reviewed the City of Albuquerque’s (“CABQ”) reimbursement request for Appropriation 21-F2583, Albuquerque Turf Project, as well as the Agreement (“Agreement”) Among the City of Albuquerque, The Duke City Gladiators (“Gladiators”), and Global Spectrum, L.P. The request for reimbursement is denied based on the information provided below.

The language for the appropriation law reads:

24. [O]ne hundred sixty thousand dollars (\$160,000) to acquire property for and to plan, design and construct artificial turf playing fields at park and recreational facilities, including swimming pools, tennis courts, sports fields, open space, medians, bikeways, bosque lands and trails, in Albuquerque in Bernalillo County.

2021 N.M. Laws, ch. 138, § 29, ¶ 24 (First Session).

After a review of the supporting documentation for the reimbursement provided by CABQ, DFA’s legal counsel determined that the use of the funds would violate the terms of the appropriation, cited above, and that if CABQ were to use the funds in the proposed manner it would also violate the New Mexico Anti-Donation Clause, N.M. CONST, art. 9, § 14.

The proposed expenditure to purchase artificial turf violates the appropriation law on two accounts. Firstly, the spirit and letter of the law is for CABQ to purchase artificial turf for public use in public spaces. In no way does it mention or allude to the use of turf for the principal benefit of a private for-profit company, but rather enumerates various examples of public spaces that any citizen of CABQ can enjoy without significant burden. Secondly, the appropriation law here requires that the turf be used in spaces that are in Albuquerque, in Bernalillo County, not Sandoval County.

In addition to violating the appropriation law, this expenditure would amount to a violation of the Anti-Donation Clause. CABQ, in its Agreement, is proposing to purchase the turf to provide directly to a private entity. According to the documents provided, CABQ is contracting for the turf bear the Gladiators' name at each end of the turf and its logo in the center of the turf. Such logos are indelible and function as a private entity's brand on what would be public property purchased with public funds. In this Agreement, CABQ also agrees to restrict the use of the turf to the Gladiators almost exclusively during its season.

Such exclusivity is further evidenced by the Agreement's stipulation that the turf will be used and located in Rio Rancho, Sandoval County, and in the closely guarded possession of the Gladiators in the off-season. Finally, and in addition to the foregoing, the Agreement does not contemplate any reasonable consideration on behalf of the Gladiators to compensate CABQ for use of the turf.

If you have any questions, please feel free to contact me at (505) 490-5788,

Sincerely,

Donnie Quintana, Director,  
Local Government Division

Cc: Carmen Morin, DFA/LGD Community Development Bureau Chief  
Monica Tapia, Community Development Project Manager