

Date: May 27, 2025

To: Finance Committee, Governing Body

Via: Erin K. McSherry, City Attorney; EM
Elisa Montoya, Community Development Department Director; EDM
Daniel Hernandez, Metropolitan Redevelopment Agency Director

From: Matt Harding, City Attorney's Office Administrative Manager *MH*

Subject: Amendment #3 to Legal Services Agreement, Item #23-0635

Vendor Name: Brownstein Hyatt Farber Schreck, LLP

Vendor Number: 10076

ITEM AND ISSUE:

The City Attorney's Office respectfully requests your review and approval of Amendment #3 to Legal Services Agreement, Item #23-0635 to increase the not-to-exceed amount by \$120,000 for a new total of \$412,160.25 (including NMGRT) for legal services related to the development of the Midtown Property. The Metropolitan Redevelopment Agency will provide \$60,000 of the additional funding appropriated for Midtown development, and the City Attorney's Office will provide the remaining \$60,000. (Matt Harding, mrharding@santafenm.gov, (505) 955-6512).

This contract was originally approved on December 11, 2023 with an expiration date of December 31, 2025 and a compensation amount of \$108,187.50 (including GRT). There have been two amendments to the contract: Amendment #1, increasing the compensation to \$216,375.00 (including GRT) (Item #24-0422) and Amendment #2, increasing the compensation to \$292,106.25 (including GRT) (Item #24-0584). The reason for Amendment #3 will be to increase compensation by an additional \$120,000 (inclusive of GRT) for a not-to-exceed amount of \$412,106.25.

1. Attach a single PDF containing the original contract and all amendments (if any).

Action Requested: Approval of Amendment #3 to Legal Services Agreement, Item #23-0635

BACKGROUND AND SUMMARY:

The City Attorney's Office sought outside counsel to assist with services related to the re-development of the Midtown Property. Next steps include entering additional disposition agreements for the remainder of the available properties.

PROCUREMENT METHOD:

Legal Services Agreements are exempt from the Procurement Code. Approved exemption on file with original contract.

Chief Procurement Officer Approval:  _____ **Date:** 05/27/2025

Comment/Exceptions: Exempt

Supporting Information:

CONTRACT NUMBER:

The Munis contract number is 3204490

\$\$\$\$\$ SOURCE/REVENUE: Expense Revenue

The funding sources are (50% each):

Fund Name/Number: General Fund/Fund 100

For FY26

Munis Org Name/Number: City Attorney's Office/1002550

Munis Object Name/Number: Legal Contract/510200

And for FY25

Munis Org Name/Number: Community Development/2120128

Munis Object Name/Number: Professional Contract/510300

If the project is grant funded? List grant award number: N/A

Grant Manager / Accounting Officer Approval: _____ **Date:** _____

Comment/Exceptions: _____

Project Ledger #: N/A

Budget Officer Approval:  **Date:** 05/27/2025

Comment/Exceptions: _____

CAPITAL ASSET (will this procurement result in a tangible item that costs more than \$5,000?):

Yes | No

(if known): _____

Repair or Replacement of Existing Equipment:

Yes | No

If yes -> Repair | Replacement

Please explain: _____

Capital Project:

(New and improvement projects that are going to cost \$10,000 or more)

Yes | No

Project Ledger #: N/A

Anticipated length of project: _____

Asset Manager Approval: _____ **Date:** _____

Comment/Exceptions: _____

Department Approvals:

IT Components: Yes | No

Vehicles: Yes | No

Facilities, Furniture, Fixtures, Equipment: Yes | No

Approval: _____ **Title:** _____ **Date:** _____

Approval: _____ **Title:** _____ **Date:** _____

Comment & Exceptions: _____

Department Contract Administrator Contact Info: Matt Harding, mrharding@santafenm.gov; 505-955-6512.

ATTACHMENTS:

Certificate of Liability Insurance

Amendment No. 3 to Legal Services Agreement

Legal Services Agreement, #23-0635

Amendment No. 1 to Legal Services Agreement (Midtown Property), #24-0422

Amendment No. 2 to Legal Services Agreement (Midtown Property), #24-0584



ADDITIONAL REMARKS SCHEDULE

AGENCY Thompson Flanagan & Company, LLC		NAMED INSURED Brownstein, Hyatt, Farber & Schreck, L.L.P. 675 15th Street, Suite 2900 Denver, CO 80202	
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Limits

Scottsdale Insurance Company (Huntersure) ((15%))
Policy Number: MSTLPL-00304

National Fire & Marine Insurance Co. (Berkshire) ((10%))
Policy Number: 42-EPP-303092-09

Columbia Casualty Company (C.N.A.) ((5%))
Policy Number: 652334162

Endurance American Specialty Insurance Company (Sompo) ((5%)).
Policy Number: LPW30018918703

1st Excess Carrier

Aspen Specialty Insurance Company
Policy Number: LX00LUQ25

2nd Excess Quota-Share Carriers

The second excess policy is a Quota-Share Policy between Evanston Insurance Company (Markel) ((50% Line)) and Columbia Casualty Company (CNA) ((50% Line))

Evanston Insurance Company (Markel) ((50% Line))
Policy Number: MKLV7PL0006892

Columbia Casualty Company (C.N.A.) ((50% Line))
Policy Number: 652334193

3rd Excess Quota-Share Carriers

The third excess policy is a Quota-Share Excess policy between Hudson Excess Insurance Company (50% Line) and Palms Insurance Company, Ltd. (50% Line)

Hudson Excess Insurance Company (50% Line)
Policy Number: LPX-1000042-2

Palms Insurance Company, Ltd. (50% Line)
Policy Number: NPPLPXBB0020-02

4th Excess Quota-Share Carriers

The fourth excess policy is a Quota-Share Policy between Endurance American Specialty Insurance Company (Sompo) ((50% Line)) and Great American Insurance Company (50% Line)

Endurance American Specialty Insurance Company (Sompo) ((50% Line))
Policy Number: LXT30018918003

Great American Insurance Company (50% Line)
Policy Number: LAXE558735

5th Excess Quota-Share Carriers

The fifth excess policy is a Quota-Share Excess Policy between Ironshore Specialty Insurance Company (67% Line) and Crum & Forster Specialty Insurance Company (33% Line)

**ADDITIONAL REMARKS SCHEDULE**

AGENCY Thompson Flanagan & Company, LLC		NAMED INSURED Brownstein, Hyatt, Farber & Schreck, L.L.P. 675 15th Street, Suite 2900 Denver, CO 80202	
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Ironshore Specialty Insurance Company (67% Line)
Policy Number: LPL7CABV4DS006

Crum & Forster Specialty Insurance Company (33% Line)
Policy Number: LOL-109211

6th Excess Quota-Share Carriers

The sixth excess policy is a Quota-Share Excess Policy between Westfield Specialty Insurance Company (20% Line), Texas Insurance Company (Applied) ((20% Line)), Vantage Specialty Insurance Company (20% Line), QBE Specialty Insurance Company (20% Line), and Fair American Select Insurance Company (ATRI) ((20% Line))

Westfield Specialty Insurance Company (20% Line)
Policy Number: ELP-321402W-02

Texas Insurance Company (Applied) ((20% Line))
Policy Number: BFLLETCO011500_021435_03

Vantage Specialty Insurance Company (20% Line)
Policy Number: P03PL0000035012

QBE Specialty Insurance Company (20% Line)
Policy Number: 130004778

Fair American Select Insurance Company (ATRI) ((20% Line))
Policy Number: LPX-3001689-00

**CITY OF SANTA FE
AMENDMENT No. 3 TO
Legal Services Agreement
ITEM# 23-0635**

This AMENDMENT No. 3 (the "Amendment") amends the CITY OF SANTA FE LEGAL SERVICES AGREEMENT, dated December 11, 2023 (the "Contract"), between the City of Santa Fe (the "City") and Brownstein Hyatt Farber Schreck, LLP (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

RECITALS:

A. Under the terms of the Contract, Contractor has agreed to provide legal services regarding real estate transactions related to development and disposition of certain parcels of the Midtown Property.

B. Pursuant to Article 13 of the Contract, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. COMPENSATION.

Article 3, Section B, last paragraph, is amended to increase the amount of compensation by a total of one hundred twenty thousand dollars (\$120,000), including gross receipts tax, so that Article 3, Section B, last paragraph, reads in its entirety as follows:

The compensation under this Contract, inclusive of the amount for the Memorandum, is not to exceed three hundred eighty thousand nine hundred eighteen dollars and fifty-four cents (\$380,918.54), excluding gross receipts tax, unless amended in writing pursuant to Paragraph 13. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling up to thirty-one thousand one hundred eighty-seven dollars and seventy-one cents (\$31,187.71) shall be paid by the City to the Contractor. **The total amount payable to the Contractor under this Agreement,**

including gross receipts tax and expenses, shall not exceed \$412,106.25. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

2. CONTRACT IN FULL FORCE.

Except as specifically provided in this Amendment, the Contract remains and shall remain in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 3 to the Contract as of the dates set forth below.

CITY OF SANTA FE:

CONTRACTOR, Brownstein Hyatt Farber Schreck, LLP:

ALAN WEBBER, MAYOR



Amy J Diaz (May 7, 2025 23:20 MDT)
Amy Diaz, SENIOR PARTNER

DATE: _____

DATE: 05/07/2025

CRS#: 03126853006
Registration # 236057

ATTEST:


ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:



Erin McSherry (May 8, 2025 08:09 MDT)
ERIN MCSHERRY, CITY ATTORNEY

APPROVED FOR FINANCES:

 *Emily K. Oster*

EMILY OSTER, FINANCE DIRECTOR










Contract_Amendment 3_Brownstein

Final Audit Report

2025-05-08

Created:	2025-05-07
By:	JULIE KENNY (jckenny@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAW494_ag7wy5OrPDuXUsoTgv3Mkxrf4y

"Contract_Amendment 3_Brownstein" History

-  Document created by JULIE KENNY (jckenny@santafenm.gov)
2025-05-07 - 11:02:39 PM GMT- IP address: 63.232.20.2
-  Document emailed to Amy Diaz (adiaz@bhfs.com) for signature
2025-05-07 - 11:03:27 PM GMT
-  Email viewed by Amy Diaz (adiaz@bhfs.com)
2025-05-08 - 4:44:51 AM GMT- IP address: 174.215.19.192
-  Signer Amy Diaz (adiaz@bhfs.com) entered name at signing as Amy J Diaz
2025-05-08 - 5:20:52 AM GMT- IP address: 174.215.19.192
-  Document e-signed by Amy J Diaz (adiaz@bhfs.com)
Signature Date: 2025-05-08 - 5:20:54 AM GMT - Time Source: server- IP address: 174.215.19.192
-  Document emailed to Erin McSherry (ekmcsberry@santafenm.gov) for signature
2025-05-08 - 5:20:56 AM GMT
-  Email viewed by Erin McSherry (ekmcsberry@santafenm.gov)
2025-05-08 - 2:09:17 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Erin McSherry (ekmcsberry@santafenm.gov)
Signature Date: 2025-05-08 - 2:09:36 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2025-05-08 - 2:09:36 PM GMT

**CITY OF SANTA FE
LEGAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into by and between the City of Santa Fe (the "City") and Brownstein Hyatt Farber Schreck, LLP, (the "Contractor"). The date of this Agreement shall be the date when it is executed by the City and the Contractor, whichever occurs last.

1. SCOPE OF SERVICES

The Contractor shall advise the City regarding real estate transactions related to development and disposition of certain parcels of the Midtown Property ("Midtown"). The real estate transactions may be complex and multidimensional.

A. Due to Midtown's complex site history and the need for the City and the Contractor to share a common understanding of that history, the Contractor shall, at the outset of its representation, analyze the Midtown Link Overlay District, Governing Body resolutions, Midtown Master Plan, Community Development Plan, and other project-related documents (collectively, "Project Documents") and prepare a comprehensive memorandum summarizing Midtown's current entitlements (the "Memorandum").

B. After completing the Memorandum, legal services work will include, as it is requested by the City's City Attorney's Office, some combination of the following services:

- Becoming familiar with previously issued Requests for Proposals ("RFPs") and all Exhibits and existing Exclusive Negotiation Agreements ("ENAs") for Midtown redevelopment;
- Advising the City regarding future RFPs and ENAs for development and disposition of parcels for housing, mixed use development, etc.
- Advising on best practices for negotiating and financing large-scale, public-private partnership development projects, based on experience, research, and the unique characteristics of Midtown;
- Advising regarding the City's due diligence investigations and any required disclosures;
- Assisting with or taking the lead on drafting and negotiating purchase and sale agreements ("Disposition and Development Agreements" or "DDAs") for certain parcels, including advising on key performance requirements, benchmarks, and opportunities to protect the City's public interest in the development phasing; and advising on protecting the City's long-term interest in the multi-phased, multi-year development program;
- Satisfying pre-closing conditions and preparing for closing;
- Closing title;
- Resolving any post-closing items; and
- Assisting with drafting legal terms regarding financial and other transactions that include obligations for implementing infrastructure or other development activities.

- Provide counsel and representation, as needed, in relation to Local Economic Development Act incentives, tax incentives, the New Mexico Affordable Housing Act, and other development opportunities.

2. STANDARD OF PERFORMANCE; LICENSES

A. The Contractor represents that it possesses the experience and knowledge necessary to perform the services described under this Agreement.

B. The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law.

3. COMPENSATION

A. Memorandum: The Contractor shall prepare the Memorandum described in 1.A. at a fixed-fee amount of \$15,000, excluding GRT, to be paid upon the City Attorney's Office written acceptance of the Memorandum.

B. Other Services: Following completion of the Memorandum, the City shall pay to the Contractor in full payment for all other services satisfactorily performed at the following rates. The Contractor records time in 6-minute increments, and Contractor's monthly billing statements will be based on time recorded in those increments.

	Commencing upon completion of the Memorandum	Commencing on January 1, 2025
Amy Diaz	\$595 / hour	\$625 / hour
Greg Vallin	\$595 / hour	\$625 / hour
Caitlin Quander	\$545 / hour	\$575 / hour
Andrew Rothberg	\$425 / hour	\$450 / hour
Angela Hygh	\$410 / hour	\$435 / hour
Matthew Nilsen	\$400 / hour	\$420 / hour
Kathy Oster, Paralegal	\$355 / hour	\$375 / hour
Taylor Wright, Paralegal	\$300 / hour	\$315 / hour

In the course of the Contractor's representation, it is anticipated that Amy Diaz will supervise and coordinate most of the work on this matter, with the assistance of the attorneys and paralegals listed above. If it becomes necessary for the Contractor to replace an attorney or paralegal listed above, the Contractor will provide the City with written notice of the replacement attorney or paralegal of comparable experience and hourly rate. In addition, to best serve the City's interests, the Contractor may recommend other attorneys affiliated with Contractor with specialized expertise to assist on this matter, provided that the Contractor shall obtain the City's prior written consent before engaging any such attorney on this matter.

It is anticipated that most third-party costs, including large format printing, title fees, recording fees, closing costs, survey, engineering, and consultant fees, will be incurred directly by the City and not advanced by the Contractor on the City's behalf. However, in addition to fees incurred for legal work, the City agrees to reimburse the Contractor for certain third-party expenses incurred by the Contractor on the City's behalf, such as ordinary postage, overnight delivery fees, electronic filing fees, or pre-approved expert fees (collectively, "Costs"), provided that such Costs do not exceed five hundred dollars (\$500.00) per month without the City's prior consent.

The compensation under this Contract, inclusive of the amount for the Memorandum, is not to exceed one hundred thousand dollars (\$100,000.00), excluding gross receipts tax, unless amended in writing pursuant to Paragraph 13. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling up to eight thousand, four hundred thirty-seven dollars and fifty cents (\$8437.50) shall be paid by the City to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (\$108,437.50). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

C. Payment: Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City.

D. Monthly Invoices: Contractor must submit a detailed statement accounting for all services performed and Costs incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

E. Retainer Deposit: The City agrees to deposit the sum of \$5,000 as an advance fee deposit and as security for the Contractor's final invoice. This deposit will be held in the Contractor's trust account for this representation, and the Contractor will bill the City monthly. The City agrees to pay the Contractor's undisputed bills on monthly basis following the City's receipt of a detailed monthly invoice, and the Contractor will apply such

payments to its legal fees and Costs. Upon the conclusion of the representation, the Contractor will apply the deposit against its final invoice, and any unused amount remaining in the trust account will be returned to the City after payment in full of its final bill.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **December 31, 2025**, unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with NMSA 1978, Section 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in NMSA 1978, Section 13-1-150.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as provided by the applicable Rules of Professional Conduct or as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement, or other crime due to misuse of City funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B. Termination Management. Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Council, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

9. Release.

Final payment following the conclusion of the engagement and the termination of the attorney-client relationship shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City, except as allowed under the applicable Rules of Professional Conduct.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

E. Contractor's engagement is limited as described in Section 1. Scope of Services of this Agreement ("Services"). Contractor and City have agreed that Contractor's representation is solely of the City and does not constitute a representation of any other entity. Contractor may currently represent clients on matters adverse to City or subdivisions,

departments, or agencies of the City, and Contractor reserves the right to do so in the future, provided however, that the attorneys working on this matter, identified under Section 3 of the contract, would not represent other clients adverse to the City during the term of this agreement and any amendments.

As a condition to our undertaking this matter for City, City agrees that Contractor may represent existing or new clients in any future matter that is not substantially related to our work for City as defined in Section 1 of this Agreement, even if the interests of such clients in those other matters are directly adverse to City. Contractor has advised City to consult with independent counsel before providing consent and agreeing to this advance waiver, and has adequate opportunity to do so.

13. Amendment.

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. Penalties for violation of law.

The Procurement Code, NMSA 1978, Sections 13-1-28 to -199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these

requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

19. Professional Liability Insurance.

Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

20. Other Insurance

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

Workers Compensation (including accident and disease coverage) at the statutory limit.
Employers liability: \$100,000.

Comprehensive general liability (including endorsements providing broad form property damage, personal injury coverage and contractual assumption of liability for all liability the Contractor has assumed under this contract). Limits shall not be less than the following:

(1) Bodily injury: \$1,000,000 per person /\$1,000,000 per occurrence.

(2) Property damage or combined single limit coverage: \$1,000,000.

(3) Automobile liability (including non-owned automobile coverage): \$1,000,000.

(4) Umbrella: \$1,000,000.

Contractor shall maintain the above insurance for the term of this Agreement and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

21. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments

22. Indemnification.

The Contractor shall indemnify and the City from all actions, proceedings, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the professionally negligent act or failures to act of the Contractor, its officers, employees, servants, subcontractors or agents, subject to and only to the extent such indemnification is not inconsistent with the coverage provided by Contractor's professional liability insurance policy. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City. Nothing in this provision shall broaden the Contractor's liability for negligent or tortious acts or omissions beyond that provided by governing law (including comparative and contributory negligence principles) or impose liability on the Contractor where no negligent or tortious conduct is proven. This provision shall not apply to any settlement or payment effected without prior written consent of the Contractor.

23. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

24. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

25. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: Erin K. McSherry, City Attorney
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
ekmcsberry@santafenm.gov

To the Contractor: Amy Diaz
201 Third Street NW
Suite 1800
Albuquerque, NM, 87102-4386
adiaz@bhfs.com

26. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

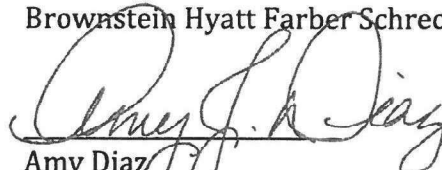
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

John Blair
John Blair (Dec 11, 2023 17:32 MST)
JOHN BLAIR, CITY MANAGER

DATE: Dec 11, 2023

Brownstein Hyatt Farber Schreck, LLP:

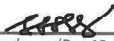

Amy Diaz
SENIOR PARTNER

DATE: 11/13/2023

CRS# 03126853006

City Business
Registration # 236057

ATTEST:



Geraldyn Cardenas (Dec 12, 2023 10:54 MST)

GERALYN CARDENAS, INTERIM CITY CLERK
XIV

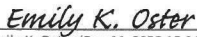
CITY ATTORNEY'S OFFICE:



Erin McSherry (Oct 18, 2023 11:50 MDT)

ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:



Emily K. Oster (Dec 11, 2023 15:04 MST)

EMILY OSTER, FINANCE DIRECTOR

1002550.510200

Business Unit Line Item

**CITY OF SANTA FE
AMENDMENT No. 1 TO
Legal Services Agreement
ITEM# 23-0635**

This AMENDMENT No. 1 (the "Amendment") amends the CITY OF SANTA FE LEGAL SERVICES AGREEMENT, dated December 11, 2023 (the "Contract"), between the City of Santa Fe (the "City") and Brownstein Hyatt Farber Schreck, LLP (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

RECITALS:

A. Under the terms of the Contract, Contractor has agreed to provide legal services regarding real estate transactions related to development and disposition of certain parcels of the Midtown Property.

B. Pursuant to Article 13 of the Contract, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. COMPENSATION.

Article 3, Section B, last paragraph, is amended to increase the amount of compensation by a total of one hundred thousand dollars, excluding gross receipts tax, so that Article 3, Section B, last paragraph, reads in its entirety as follows:

The compensation under this Contract, inclusive of the amount for the Memorandum, is not to exceed two hundred thousand dollars (\$200,000.00), excluding gross receipts tax, unless amended in writing pursuant to Paragraph 13. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling up to sixteen thousand, eight hundred seventy-five dollars (\$16,375.00) shall be paid by the City to the Contractor.

The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (\$216,375.00). This amount is a maximum


and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

CONTRACT IN FULL FORCE.

Except as specifically provided in this Amendment, the Contract remains and shall remain in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the Contract as of the dates set forth below.

CITY OF SANTA FE:


Alan Webber (Jun 27, 2024 12:32 MDT)
ALAN WEBBER, MAYOR

DATE: Jun 27, 2024

CONTRACTOR, Brownstein Hyatt Farber Schreck, LLP:


Amy Diaz, SENIOR PARTNER

DATE: 06.05.2024

CRS#: 03126853006
Registration # 236057

ATTEST:


GERALYNCARDENAS, INTERIM CITY CLERK
GB MTG 06/26/24 xrv

CITY ATTORNEY'S OFFICE:

Patricia Feghali
Patricia Feghali (Jun 6, 2024 08:33 MDT)
PATRICIA FEGHALI, ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
EMILY OSTER, FINANCE DIRECTOR







Procurement_Checklist_Brownstein Amend 1

Final Audit Report

2024-06-05

Created:	2024-06-05
By:	Amy Cawthon (amcawthon@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAACF0ngntyx9htx5oTcVRS6DV3GlsIsUMS

"Procurement_Checklist_Brownstein Amend 1" History

-  Document created by Amy Cawthon (amcawthon@santafenm.gov)
2024-06-05 - 7:16:19 PM GMT - IP address: 63.232.20.2
-  Document e-signed by Amy Cawthon (amcawthon@santafenm.gov)
Signature Date: 2024-06-05 - 7:17:32 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Erin McSherry (ekmcsberry@santafenm.gov) for signature
2024-06-05 - 7:17:33 PM GMT
-  Email viewed by Erin McSherry (ekmcsberry@santafenm.gov)
2024-06-05 - 7:40:05 PM GMT - IP address: 104.47.65.254
-  Document e-signed by Erin McSherry (ekmcsberry@santafenm.gov)
Signature Date: 2024-06-05 - 7:58:31 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2024-06-05 - 7:58:31 PM GMT

Brownstein Amendment 1 PACKET

Final Audit Report

2024-06-13

Created:	2024-06-10
By:	Kristy Miera (kamiera@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAACDlze88-7a66joI-LpSb35rhVLaQUpmV

"Brownstein Amendment 1 PACKET" History

-  Document created by Kristy Miera (kamiera@santafenm.gov)
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-  Document emailed to ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov) for signature
2024-06-10 - 4:03:39 PM GMT
-  Email viewed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
2024-06-10 - 4:19:30 PM GMT- IP address: 104.47.64.254
-  Document e-signed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
Signature Date: 2024-06-10 - 4:19:58 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document sent to JoAnn Lovato (jdlovato@santafenm.gov) and Travis Dutton-Leyda (tkduttonleyda@santafenm.gov) for signature. One of them to sign
2024-06-10 - 4:20:02 PM GMT
-  Email viewed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
2024-06-12 - 1:55:41 PM GMT- IP address: 172.226.190.13
-  Email viewed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
2024-06-13 - 3:00:47 PM GMT- IP address: 104.28.57.246
-  Email viewed by JoAnn Lovato (jdlovato@santafenm.gov)
2024-06-13 - 8:45:09 PM GMT- IP address: 63.232.20.2
-  Document e-signed by JoAnn Lovato (jdlovato@santafenm.gov)
Signature Date: 2024-06-13 - 8:49:45 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to EMILY OSTER (ekoster@santafenm.gov) for signature
2024-06-13 - 8:49:49 PM GMT



 Email viewed by EMILY OSTER (ekoster@santafenm.gov)

2024-06-13 - 11:19:20 PM GMT- IP address: 104.47.64.254

 Document e-signed by EMILY OSTER (ekoster@santafenm.gov)

Signature Date: 2024-06-13 - 11:22:02 PM GMT - Time Source: server- IP address: 63.232.20.2

 Agreement completed.

2024-06-13 - 11:22:02 PM GMT

Signature: 
XAVIER VIGIL (Jun 27, 2024 12:20 MDT)

Email: xivigil@santafenm.gov

**CITY OF SANTA FE
AMENDMENT No. 2 TO
Legal Services Agreement
ITEM# 23-0635**

This AMENDMENT No. 2 (the "Amendment") amends the CITY OF SANTA FE LEGAL SERVICES AGREEMENT, dated December 11, 2023 (the "Contract"), between the City of Santa Fe (the "City") and Brownstein Hyatt Farber Schreck, LLP (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

RECITALS:

A. Under the terms of the Contract, Contractor has agreed to provide legal services regarding real estate transactions related to development and disposition of certain parcels of the Midtown Property.

B. Pursuant to Article 13 of the Contract, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. COMPENSATION.

Article 3, Section B, last paragraph, is amended to increase the amount of compensation by a total of seventy thousand dollars, excluding gross receipts tax, so that Article 3, Section B, last paragraph, reads in its entirety as follows:

The compensation under this Contract, inclusive of the amount for the Memorandum, is not to exceed two hundred and seventy thousand dollars (\$270,000.00), excluding gross receipts tax, unless amended in writing pursuant to Paragraph 13. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling up to twenty-two thousand, one hundred and six dollars and twenty-five cents (\$22,106.25) shall be paid by the City to the Contractor.

The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$292,106.25. This amount is a maximum


and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

CONTRACT IN FULL FORCE.

Except as specifically provided in this Amendment, the Contract remains and shall remain in full force and effect, in accordance with its terms.

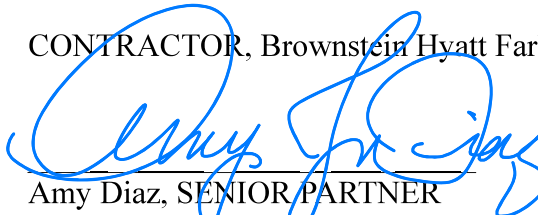
IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the Contract as of the dates set forth below.

CITY OF SANTA FE:


Alan Webber (Sep 27, 2024 15:59 MDT)
ALAN WEBBER, MAYOR

DATE: Sep 27, 2024

CONTRACTOR, Brownstein Hyatt Farber Schreck, LLP:


Amy Diaz, SENIOR PARTNER

DATE: 9/16/2024

CRS#: 03126853006
Registration # 236057

ATTEST:


GERALYN CARDENAS, INTERIM CITY CLERK
GB MTG 09/25/2024 xiv

CITY ATTORNEY'S OFFICE:

Patricia Feghali
Patricia Feghali (Sep 17, 2024 13:35 MDT)
PATRICIA FEGHALI, ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:


EMILY OSTER, FINANCE DIRECTOR







Contract_Amendment 2_Brownstein-Final CAO

Final Audit Report

2024-09-17

Created:	2024-09-17
By:	Amy Cawthon (amcawthon@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA461UQ6m1ACXjOITtaZyRxZ1fbnJkudR

"Contract_Amendment 2_Brownstein-Final CAO" History

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2024-09-17 - 7:11:05 PM GMT
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2024-09-17 - 7:35:05 PM GMT- IP address: 104.47.64.254
-  Signer pfeighali@santafenm.gov entered name at signing as Patricia Feghali
2024-09-17 - 7:35:34 PM GMT- IP address: 63.232.20.2
-  Document e-signed by Patricia Feghali (pfeighali@santafenm.gov)
Signature Date: 2024-09-17 - 7:35:36 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2024-09-17 - 7:35:36 PM GMT

Signature: Erin McSherry
Erin McSherry (May 21, 2025 10:01 MDT)
Email: ekmcsherry@santafenm.gov

Signature: Elisa D. Montoya
Elisa D. Montoya (May 21, 2025 13:57 MDT)
Email: edmontoya1@santafenm.gov

Signature: Daniel Hernandez
Daniel Hernandez (May 23, 2025 16:45 MDT)
Email: dahernandez@santafenm.gov

Signature: Erin McSherry
Erin McSherry (May 27, 2025 16:21 MDT)
Email: ekmcsherry@santafenm.gov

Signature: Elisa D. Montoya
Elisa D. Montoya (May 27, 2025 16:23 MDT)
Email: edmontoya1@santafenm.gov

Signature: *Emily K. Oster*

Email: ekoster@santafenm.gov