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**CITY OF SANTA FE, NEW MEXICO**

**RESOLUTION NO. 2024-\_\_**

**INTRODUCED BY:**

Councilor Amanda Chavez

**RED – Amendment A Chavez**

**A RESOLUTION**

**ASSIGNING AUTHORIZED OFFICERS AND AGENTS FOR GRANT AGREEMENT  
NUMBER SAP 22-G2419-STB FOR THE PLAN, DESIGN, AND CONSTRUCTION OF  
IMPROVEMENTS ON JEMEZ ROAD.**

**WHEREAS**, in the Laws of 2022, Chapter 52, Section 22, Subsection 118, the Legislature made an appropriation to the New Mexico Environment Department (“NMED”), funds from which NMED is making available to the City of Santa Fe (“Grantee”) through Grant Agreement, number SAP 22-G2419-STB (“Agreement”), incorporated as Attachment A, in the amount of four hundred thousand dollars (\$400,000), to plan, design, and construct improvements on Jemez Road, including a sewer line south of Airport Road, to improve residential septic systems in the city of Santa Fe, in Santa Fe County; and

**WHEREAS**, Article X.B.(v) of the Agreement states that, the “Grantee’s governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment” and as is described in Article III of the agreement (Attachment A), the

1 signatories identified in the resolution “will be the contact and signatory for all disbursements and  
2 Notices of Obligation”~~;~~; and

3 **WHEREAS**, in a letter dated August 24, 2023, the New Mexico Department of Finance  
4 and Administration (“DFA”) took the position that it required the City to initiate a fiscal agent  
5 relationship in order for the City to utilize its current State Capital appropriations; and

6 **WHEREAS**, as a result of the DFA’s position, the City entered into an  
7 intergovernmental services agreement, incorporated as Attachment B, with North Central  
8 Economic Development District (“NCEDD”) for fiscal agent services, in which NCEDD agreed  
9 to review and sign Requests for Payment for permissible expenditures, on December 19, 2023.

10 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
11 **CITY OF SANTA FE** that,

- 12 1) Alan Webber, Mayor, or successor(s) is the City’s official authorized to sign  
13 the Agreement for this Project once approved by the Governing Body of the  
14 City of Santa Fe;
- 15 2) Stan Holland, Wastewater Division Engineer, or successor(s), is the Official  
16 Representative who is authorized to sign all other documents necessary to  
17 fulfill the Agreement and the requirements (~~Disbursements~~ Requests for  
18 ~~Payment~~ and Notices of Obligation) and to act as the Project contact;
- 19 3) Felicity Fonseca, Community Development Director, North Central New  
20 Mexico Economic Development District or successor(s) is the Fiscal Agent  
21 who is authorized to sign ~~Disbursements~~ Requests for Payment submitted by  
22 the City to the State pursuant to Article IX of the Agreement and Attachment  
23 B.

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PASSED, APPROVED, and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
ALAN WEBBER, MAYOR

ATTEST:

\_\_\_\_\_  
GERALYN F. CARDENAS, INTERIM CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
ERIN K. McSHERRY, CITY ATTORNEY

*Legislation/2024/Resolutions/Authorizing the Assignment of Authorized Officers and Agents*

# ATTACHMENT A

**STATE OF NEW MEXICO  
DEPARTMENT OF ENVIRONMENT  
FUND CAPITAL APPROPRIATION PROJECT  
JEMEZ RD CONSTRUCT  
SAP 22-G2419-STB**

**THIS AGREEMENT** between the New Mexico Environment Department hereinafter called the “Department” or NMED, and City of Santa Fe, hereinafter called the “Grantee” becomes effective on the date signed by the NMED.

## RECITALS

**WHEREAS**, in the Laws of 2022, Chapter 53, Section 22, Subsection 118, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

**WHEREAS**, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

**WHEREAS**, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

### ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

SAP 22-G2419-STB \$400,000.00 APPROPRIATION REVERSION DATE: June 30, 2026

Laws of 2022, Chapter 53, Section 22, Subsection 118, Four Hundred Thousand Dollars, (\$400,000.00), for:

to plan, design and construct improvements on Jemez road, including a sewer line south of Airport road, to improve residential septic systems in Santa Fe in Santa Fe county

The Grantee’s total reimbursements shall not exceed Four Hundred Thousand Dollars, \$400,000.00 (the “Appropriation Amount”) minus the allocation for Art in Public Places (“AIPP amount”)<sup>1</sup>, if applicable, No Dollars, \$0.00, which equals Four Hundred Thousand Dollars, \$400,000.00 (the “Adjusted Appropriation Amount”).

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<sup>1</sup> The AIPP amount is “an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000).” Section 13-4A-4 NMSA 1978.

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the “Project”; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the “Project Description.” The Special Conditions Attachment may set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If the Special Conditions Attachment imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of the Attachment shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

## **ARTICLE II. LIMITATION ON DEPARTMENT’S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE**

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department’s Obligation to Reimburse<sup>2</sup> Grantee (hereinafter referred to as “Notice of Obligation”). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee’s expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee’s Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee’s expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as “Third Party Obligations”; and
- (iv) The Grantee’s submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
  - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
  - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures

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<sup>2</sup> “Reimburse” as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third-Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The Grantee shall submit to the Department one copy of all Third-Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third-Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
- c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.
- d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third-Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

### **ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES**

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

For all matters related to this Agreement, the Grantee designates their official representative(s) or successor, in their Signatory Resolution, as required in Article X. B. (v). The official representative will be the contact and signatory for all disbursements and Notices of Obligation.

If applicable, the Grantee designates an Alternative Fiscal Agent in the Signatory Resolution as required in Article X. B. (v), and in the Alternative

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

**NMED Program Administrator**

Name: Paulette Ortiz  
Email: paulette.ortiz@env.nm.gov  
Telephone: 505-670-3583

**NMED Project Manager**

Name: Stephanie DuBois  
Email: stephanie.dubois@env.nm.gov  
Telephone: 505-222-9568

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party’s actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

**ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS**

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the “Reversion Date.” Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on June 30, 2026 the Reversion Date unless Terminated Before Reversion Date (“Early Termination”) pursuant to Article V herein.

B. The Project’s funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project’s Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

**ARTICLE V. EARLY TERMINATION**

**A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement**

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

**B. Early Termination Before Reversion Date Due to Non-appropriation**

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term “non-appropriate” or “non-appropriation” includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department’s decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

**C. Limitation on Department’s Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination**

In the event of Early Termination of this Agreement by either party, the Department’s sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

**ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS**

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department’s sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

**D. Corrective Action Plan in the Event of Suspension**

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

## **ARTICLE VII. AMENDMENT**

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

## **ARTICLE VIII. REPORTS**

### **A. Database Reporting**

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (Budget & Formulation Management System). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

### **B. Requests for Additional Information/Project Inspection**

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

## **ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES**

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the

Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. **Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) Twenty (20) days from date of Early Termination; or
- (iii) **Twenty (20) days from the Reversion Date.**

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

**ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES**

A. The following general conditions and restrictions are applicable to the Project:

- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
- (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages

and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

- (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the “Anti-Donation Clause.”
  - (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project’s funds to uses other than those specified in the Project Description without the Department's and the Board of Finance’s express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
  - (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.
- B. The Grantee hereby represents and warrants the following:
- (i) The Grantee has the legal authority to receive and expend the Project’s funds.
  - (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
  - (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
  - (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
  - (v) The Grantee’s governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
  - (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with

respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

- (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

#### **ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS**

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

#### **ARTICLE XII. IMPROPERLY REIMBURSED FUNDS**

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

#### **ARTICLE XIII. LIABILITY**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

#### **ARTICLE XIV. SCOPE OF AGREEMENT**

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

#### **ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

The Grantee acknowledges, warrants, and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the Santa Fe may immediately terminate this Agreement by giving Contractor written notice of such termination. The Santa Fe’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the Santa Fe or the New Mexico Environment Department or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Santa Fe or the Department”

#### **ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a New Mexico Environment Department Grant Agreement. Should the NMED early terminate the grant agreement, the Santa Fe may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Santa Fe only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

#### **ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.**

- A. Throughout the term of this Agreement, Grantee shall:
  1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
  2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);

3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

**ARTICLE XVIII. [OPTIONAL IF THE APPROPRIATION IS FUNDED BY SEVERANCE TAX BONDS OR GENERAL OBLIGATION BONDS] SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES**

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

Authorization Page  
JEMEZ RD CONSTRUCT SAP 22-G2419-STB

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date of execution by the Department.

**GRANTEE**

\_\_\_\_\_  
Signature of Official with Authority to Bind Grantee

\_\_\_\_\_  
Entity Name

By: \_\_\_\_\_  
(Type or Print Name)

Its: \_\_\_\_\_  
(Type or Print Title)

\_\_\_\_\_  
Date

**New Mexico Environment Department**

\_\_\_\_\_  
Judith L. Kahl, P.E., Bureau Chief, NMED Construction Programs Bureau  
Signed pursuant to the March 24, 2023 Secretary of Environment Delegation Order

IN WITNESS WHEREOF, the City of Santa Fe has agreed to this Grant as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

See Previous Page

ALAN WEBBER, MAYOR

DATE: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
GERALYN CARDENAS, INTERIM CITY CLERK

CITY ATTORNEY’S OFFICE:

Kevin L. Nault  
Kevin L. Nault (Aug 21, 2024 13:31 MDT)  
ASSISTANT CITY ATTORNEY

FINANCE:

\_\_\_\_\_  
EMILY OSTER, FINANCE DIRECTOR

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
Request for Payment Form  
Exhibit 1**

<b>I. Grantee Information</b>				<b>II. Payment Computation</b>			
<small>(Make sure information is complete &amp; accurate)</small>							
A.	Grantee:			A.	Payment Request No.		
B.	Address:			B.	Grant Amount:		
<small>(Complete Mailing, including Suite, if applicable)</small>				C.	AIPP Amount <i>(If Applicable)</i> :		
				D.	Funds Requested to Date:		
				E.	Amount Requested this Payment:		
				F.	Reversion Amount <i>(If Applicable)</i> :		
	<small>City</small>	<small>State</small>	<small>Zip</small>	G.	Grant Balance:		
C.	Phone No:			H.	<input type="checkbox"/> GF <input type="checkbox"/> GOB <input type="checkbox"/> STB <i>(attach wire if first draw)</i>		
D.	Grant No:			I.	<input type="checkbox"/> Final Request for Payment <i>(if Applicable)</i>		
E.	Project Title:						
F.	Grant Expiration Date:						
<b>III. Fiscal Year :</b>							
<small>(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)</small>							
<b>IV.</b>	<b>Reporting Certification:</b> I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.						
<input type="checkbox"/>							
<b>V.</b>	<b>Compliance Certification:</b> Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.						
<input type="checkbox"/>							
<b>Grantee Fiscal Officer</b> or <b>Fiscal Agent</b> <i>(if applicable)</i>				<b>Grantee Representative</b>			
Printed Name				Printed Name			
Date:				Date:			
<b>(State Agency Use Only)</b>							
Vendor Code:		Fund No.:		Loc No.:			
I certify that the State Agency financial and vendor file information agree with the above submitted information.							
Division Fiscal Officer				Division Project Manager			
Date				Date			

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE  
SAMPLE EXHIBIT 2**

**Notice of Obligation to Reimburse Grantee [# 1]**

DATE: [\_\_\_\_\_]

TO: Department Representative: [\_\_\_\_\_, \_\_\_\_\_]

FROM: Grantee: [\_\_\_\_\_]

Grantee Official Representative: [\_\_\_\_\_]

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: [\_\_\_\_\_]

Grant Termination Date: [\_\_\_\_\_]

As the designated representative of the Department for Grant Agreement number [\_\_\_\_\_]  
entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the  
following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: [\_\_\_\_\_]

Third Party Obligation Amount: [\_\_\_\_\_]

Vendor or Contractor: [\_\_\_\_\_]

Third Party Obligation Amount: [\_\_\_\_\_]

Vendor or Contractor: [\_\_\_\_\_]

Third Party Obligation Amount: [\_\_\_\_\_]

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within  
the scope of the project description, subject to all the terms and conditions of the above referenced Grant  
Agreement.

Grant Amount (Minus AIPP if applicable): [\_\_\_\_\_]

The Amount of this Notice of Obligation: [\_\_\_\_\_]

The Total Amount of all Previously Issued Notices of Obligation: [\_\_\_\_\_]

The Total Amount of all Notices of Obligation to Date: [\_\_\_\_\_]

*Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.*

Department Rep. Approver: [\_\_\_\_\_]

Title: [\_\_\_\_\_]

Signature: [\_\_\_\_\_]

Date: [\_\_\_\_\_]

<sup>1</sup> Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

New Mexico Environment Department (NMED)  
Capital Appropriations Certification Document  
Article IX. A. (ii) and (iii)  
Project JEMEZ RD CONSTRUCT SAP 22-G2419-STB  
Grantee Santa Fe  
Payment Request No \_\_\_\_\_

I certify that payment to all vendors on the above referenced payment request were paid no more than five (5) days after receiving reimbursement from NMED.

---

Official Representative, Signed Name, Printed Name, Date

**TECHNICAL REQUIREMENTS  
NEW MEXICO ENVIRONMENT DEPARTMENT  
CAPITAL OUTLAY**

**ARTICLE 1      REVIEW**

Upon execution of the grant agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee and related to the project, for review and, if appropriate, approval. Only approved eligible expenditures incurred **after** the effective date of the Grant Agreement shall be reimbursed or paid from these funds.
- B. If these grant funds are to be used for engineering and/or other professional services, the hiring process for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If engineering fees exceed \$60,000, excluding gross receipt taxes, the Grantee is required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the Request for Proposals (RFP) package. (PTAB: phone (505) 888-6161 and e-mail [ptab@acecnm.org](mailto:ptab@acecnm.org).)
- C. If these grant funds are used for engineering and/or other professional services, the Grantee must submit a copy of any executed engineering agreement and/or other professional services contract so a notice of obligation can be prepared and issued. If the Grantee's staff will be used to prepare the design, a letter certifying that must be submitted to NMED for the project record. The grantee has the option of using the NMED engineering agreement. In any case all engineering agreements must include the non-appropriation and termination clauses required by DFA in all agreements funded by capital outlay.
- D. A preliminary engineering report (PER), technical memorandum, or study by a registered New Mexico Professional Engineer may be required.
- E. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, specifications, bid documents, and engineer's construction cost estimate, for the project (prepared and sealed by a licensed and registered New Mexico Professional Engineer) to NMED **before** the project is advertised for construction bids, along with a letter **from the Grantee** stating that they have reviewed and accepted the plans and specifications. If required, the Grantee must also submit the plans and specifications to the appropriate regulatory agency for review and approval and provide a copy of the approval letter from the regulatory agency. Upon receipt of these documents the NMED will issue a letter confirming receipt of the required documents and informing the Grantee to proceed with advertising the project for construction bids.
- F. A site certificate must be submitted prior to project bid advertisement that certifies all necessary easements, rights-of-way, and/or property upon or through which the project is being constructed have been obtained. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor.

- G. If grant funds are to be used for the purchase or acquisition of real property as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser selected through applicable procurement procedures.
- H. The Grantee will submit the proof of advertisement, recommendation of award, bid tabulation, complete bid submittal of the selected contractor, any addenda issued, and funding analysis listing all funds that will pay for construction to NMED prior to award of the construction contract, along with a letter from the Grantee stating they concur with the recommendation of award to the selected contractor and price and confirming that the Grantee has sufficient funds for construction.
- I. The Grantee will submit the notice of the award, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to proceed to NMED. NMED will prepare and issue the notice of obligation for the construction cost making the grant funds available for reimbursement of construction costs. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- J. The Grantee will provide a full-time construction inspector during construction of the project unless NMED determines that part time inspection is adequate for the project. This must be requested and approved by NMED prior to the start of construction.
- K. All daily construction inspection reports shall be made available to the NMED upon request.
- L. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans but will be a general NMED review as described in Article 2 below.
- M. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.
- N. NMED will reimburse the grantee its actual costs when NMED determines, in its sole discretion, that expenditures were appropriate under the terms of the Agreement and that the expenditures were properly documented.

## **ARTICLE 2      NMED OVERSIGHT**

NMED inspection, review and oversight is only for purposes of compliance with applicable state grant requirements, procedures, statutes, and regulations. NMED approval will not be interpreted as a warranty or guarantee of any kind. Responsibility for the design of the project will lie solely with the engineer of record. All defects and their correction will be the responsibility of the Grantee and its contractors and engineers or consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and engineers or consultants will remain responsible for the completion and success of the project. No action by NMED shall relieve the

owner, engineer, or contractor of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

**ARTICLE 3**      **CLOSEOUT**

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and the engineer of record.
- B. If the grant funds are used for purchase of equipment, final payment will be made after receipt of the equipment and equipment title, if applicable. Appraisal reports are required for the purchase of used equipment.
- C. If the grant funds are used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
  - i. A certificate of substantial completion including punch list items.
  - ii. A final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee.
  - iii. A written consent of the surety, if any, to final payment.
  - iv. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Grantee or its property might in any way be responsible, have been paid or otherwise satisfied.
  - v. Certification letter by the Grantee and contractor that the Labor Standards Contract Provisions have been met.
  - vi. Certification letter of project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED.
  - vii. Certification letter from the Grantee confirming receipt and acceptance of the record drawings and operation and maintenance manuals.

NEW MEXICO ENVIRONMENT DEPARTMENT  
CONSTRUCTION PROGRAMS BUREAU

**NMED DISBURSEMENT REQUEST  
SPECIAL APPROPRIATIONS PROGRAM (SAP)**

A. NAME OF ENTITY

C. DISBURSEMENT REQUEST NUMBER

B. PROJECT NUMBER

D. GRANT AMOUNT

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Engineer Fees								
<i>Other Professional</i>								
Service Fees								
Inspection Fees								
Property Acquisition								
Construction Cost								
Planning Cost								
Equipment								
Other Costs (specify)								
Contingencies								
<b>TOTAL</b>								

Article IX.A. (iii). By checking this box you are stating that payment has NOT been paid to the vendors associated with this request. Upon receipt of payment from NMED, certification of payment will be sent within 10 days from the date of receiving reimbursement.

Article IX. A. (ii). By checking this box you are certifying that the vendors associated with this request have been paid.

**Certification:** Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti-donation" clause.

	Signature of Official Representative:	Typed or Printed Name:	Phone:	Date:
	X			
	Signature of Fiscal Agent if applicable:	Typed or Printed Name:	Phone:	Date:
	X			

**A RESOLUTION AUTHORIZING THE ASSIGNMENT OF AUTHORIZED OFFICER(S) AND AGENT(S)**

**Resolution Number**

**Whereas**, the Board of Directors / Council / Commission of Community / Utility of County Name County of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department, and

**Whereas**, the Agreement is identified as Project Number SAP \_\_\_\_\_

**NOW THEREFORE, BE IT RESOLVED** by the named applicant that:

(Name), Mayor/ Chairperson / Director / Officer, or successor is authorized to sign the Grant Agreement for this project, and

(Authorized Officer Name), (Authorized Officer Title), (may have more than one) or successor is the OFFICAL REPRESENTATIVE(S) who is authorized to sign all other documents necessary to fulfill the Grant Agreement and the requirements (Disbursements and Notice of Obligations (NOO)) and to act as the project contact, and

(Designated Agent or Employee Name), (Title), or successor is the Budget & Formulation Management System (BFM) contact who is designated to update the BFM database quarterly per Article VIII. A. of the Intergovernmental Grant Agreement.

If a Fiscal Agent is required:

(Fiscal Agent Representative Name and Title) or successor, is the FISCAL AGENT and is authorized to sign Disbursements.

**PASSED, APPROVED, AND ADOPTED:** \_\_\_\_\_.

**Name, Mayor / Chairperson / Director / Officer, Title, Community / Utility**

\_\_\_\_\_  
**(Signature)**

\_\_\_\_\_  
**Date**

**(SEAL)**

**ATTEST:**

\_\_\_\_\_  
**(Municipal Clerk)**

**Name of Grantee:** \_\_\_\_\_ **Project Number:** \_\_\_\_\_  
**Current Authorized Signatures** (submit with Signature Resolution; update when necessary)

<b>Authorized to Sign Grant Agreement</b>	
Name	
Title	
Signature	
Address	
Email	
Phone	
<b>Official Representatives authorized to sign Disbursement Requests and All Other Documents,</b>	
Name	
Title	
Signature	
Address	
Email	
Phone	
<b>Alternate Official Representative; To sign Disbursement Requests and All Other Documents, Requirement and Act as the Project Contact</b>	
Name	
Title	
Signature	
Address	
Email	
Phone	
<b>Designated Agent or Employee that will make Quarterly BFM Updates</b>	
Name	
Title	
Signature	Signature Not Required
Address	
Email	
Phone	
<b>Designated Agent or Employee that will make Quarterly BFM Updates</b>	
Name	
Title	
Signature	Signature Not Required

Address	
Email	
Phone	





INTERGOVERNMENTAL SERVICES AGREEMENT  
BETWEEN CITY OF SANTA FE AND  
NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT  
FOR FISCAL AGENT SERVICES

---

**WHEREAS**, the State of New Mexico appropriated funding for the purposes of improvements in the City of Santa Fe (“City”) to the State of New Mexico, Department of Finance and Administration, Local Government Division, in the laws of Laws of 2021, Chapter 138, as detailed below (“Projects”);

**WHEREAS**, NCNMEDD acknowledges that the appropriations for the Projects are intended for City;

**WHEREAS**, City, a municipality within Santa Fe County and the State of New Mexico, agrees to engage North Central New Mexico Economic Development District (“NCNMEDD”) in providing fiscal agency services in relation to the Projects.

**NOW, THEREFORE**, the parties do mutually agree as follows:

This Agreement is entered into by and between City and NCNMEDD pursuant to the following purposes, conditions, and terms:

**A. PURPOSE**

The purpose of this Agreement is for NCNMEDD to provide fiscal agent services in connection with the Projects as specifically appropriated under New Mexico Legislative Appropriation Agreements identified as follows:

ApprID	Leg. Session	Appropriation Title	Year	Ch	Sect	Agency		Amount	Project Description
F2900	2021	SANTA FE PARKS UPGRADE	2021	138	29/341	341	Finance & Administration	1,000,000	to plan, design, construct, repair, improve and equip parks in Santa Fe in Santa Fe county;
F2902	2021	SANTA FE TIERRA CONTENTA TRAIL CONSTRUCT	2021	138	29/343	341	Finance & Administration	300,000	to plan, design and construct a trail in the Tierra Contenta subdivision in Santa Fe in Santa Fe county;
F2903	2021	SANTA FE MIDTOWN INFRADES CONSTRUCT	2021	138	29/344	341	Finance & Administration	1,000,000	to plan, design, construct and improve infrastructure for the midtown Santa Fe property in Santa Fe in Santa Fe county;
F2899	2021	SANTA FE HOMEBOUND MEALS PROGRAM IMPROVE	2021	138	29/340	341	Finance & Administration	250,000	to plan, design, renovate, construct, improve and equip a facility for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county;
F2901	2021	SANTA FE SOUTHSIDE TEEN CTR CONSTRUCT	2021	138	29/342	341	Finance & Administration	1,805,000	to plan, design, construct, furnish and equip a teen and resource center on the south side of Santa Fe in Santa Fe county;

Other projects may be included as agreed upon in writing and by amendment between the Parties.

## **B. SCOPE OF WORK**

NCNMEDD's services in support of the above purpose shall be to provide fiscal agency services associated with the Projects, including:

### 1. NCNMEDD Fiscal Agency Services:

- Ensure that grant funds are expended in compliance with all applicable laws, regulations, and grant agreement and the transactions are appropriately accounted for in compliance with such laws, regulations, and grant agreement;
- Ensure safeguarding of grant funds and assets acquired with grant funds and proper accounting thereof in compliance with applicable laws, regulations, and grant agreement;
- Act as liaison between City and appropriate New Mexico state agencies as needed;
- Complete all required quarterly and financial reporting with information provided by City;
- Review and sign-off on project invoices to the appropriate State agency in a timely manner; and

- Work with the State on providing direct project reimbursements to City and act as a facilitator for such reimbursements as needed.
2. City Role and Responsibilities
- City understands it remains ultimately responsible for executing and complying with all applicable laws, regulations, and grant agreement requirements such as flow down provisions, executing procurement responsibilities, and subcontractor management, as well as project, grant, and financial management.

### **C. TIMEFRAME**

Work pursuant to this Agreement shall be effective no sooner than the date of last party signature below, and shall conclude upon notice by either party pursuant to paragraph I, but no later than one month following the reversion date of the appropriations, except as amended and mutually agreed upon in writing.

### **D. COMPENSATION:**

NCNMEDD has agreed to provide the agreed upon services at **three percent (3%)** of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from this grant to make such payments.

### **E. RECORDS AND RECOVERY:**

NCNMEDD shall maintain appropriate records of services rendered during the Agreement term and retain them for a period of three (3) years after the grant has been closed.

### **F. ACCESS TO INFORMATION**

City and its contractors and subcontractors shall provide information, as needed, for purposes and work described in this Agreement. NCNMEDD will be included and copied on all invoices and reports, prior to City's submission to the appropriate State agency.

### **G. OWNERSHIP OF PROJECTS**

All documents, capital improvements, and project assets produced pursuant to this Agreement shall be the property of City which shall assume full administrative responsibility for the life of the project; or the State grant agreement required period, whichever comes first.

## **H. LIMITATION OF LIABILITY**

This Agreement shall not create a general liability of the constituent members of NCNMEDD.

City shall hold NCNMEDD harmless with respect to any damages, expenses, or claims arising or in connection with any negligent acts, errors, or omissions performed by City under this Agreement. This term shall not limit NCNMEDD liability with respect to NCNMEDD's negligence or willful misconduct.

## **I. MODIFICATION AND TERMINATION**

Any modifications or amendments to this Agreement shall be in writing, and when signed by both parties shall be made part of the Agreement. This Agreement may be terminated by either party upon thirty (30) days written notice to the other.

## **J. CERTIFICATION**

City shall comply with the requirements of all applicable laws, rules, and regulations, and shall assume full responsibility for payment of federal, state, and local taxes and contributions imposed or required under Social Security, Workers Compensation and income tax laws. City is required to follow all State procurement regulations and it is City obligation and responsibility to follow all State requirements as certified in the project bond questionnaire process and as included in associated State grant agreements, including reporting and drawdown requirements, such documents to be filed for each project in conjunction with this agreement.

## **K. ADEQUATE APPROPRIATIONS**

Performance of this agreement is contingent upon sufficient appropriations and authorization being made for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate immediately upon written notice being given by NCNMEDD to City. NCNMEDD's decision as to whether sufficient appropriations are available shall be accepted by City and shall be final. If NCNMEDD proposes an amendment to the Agreement to unilaterally reduce its Fiscal Agency Services, City shall have the option to terminate the Agreement or agree to negotiate for reduced Fiscal Agency Services: within thirty (30) days of receipt of the proposed amendment.

## **L. PENALTIES**

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.

## **M. 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: City  
City Manager John Blair  
City of Santa Fe  
200 Lincoln  
Santa Fe, New Mexico, 87501j

To NCNMEDD:  
Monica Abeita Executive Director NCNMEDD  
3900 Paseo del Sol  
Santa Fe, NM 87507

**N. DISPUTE RESOLUTION**

The parties to this agreement agree that in the event of a dispute that may arise hereunder, which dispute cannot be reasonably resolve, they will submit to mediation by a neutral mediator, the cost of which will be borne equally by both parties. Disputes that cannot be resolved by mediation shall be subject to the laws of the State of New Mexico under the jurisdiction of the First Judicial District Court.

**O. BREACH AND DEFAULT**

If either party commits a breach or default in the performance or observance of any of its obligations under this agreement and such breach or default continues and is not corrected within thirty (30) days of written notification of such breach or default by either party to the other, the non-breaching or non-defaulting party shall have the right to terminate this agreement by giving notice to the breaching or defaulting party.

**P. ASSIGNMENT**

No portion of this agreement may be assigned to another party without the express written consent of the City and NCNMEDD.

APPROVED THIS 15<sup>th</sup> DAY OF December, 2023,  
BY CITY.

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT:

BY: Monica Abeita 12/8/23

\_\_\_\_\_  
Monica Abeita, Executive Director

\_\_\_\_\_  
Date

IN WITNESS WHEREOF, the City of Santa Fe has agreed to this Waiver as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

AW

\_\_\_\_\_  
ALAN WEBBER, MAYOR

Dec 19, 2023

DATE: \_\_\_\_\_

ATTEST:

GC  
Geraldyn Cardenas (Dec 19, 2023 14:06 MST)

\_\_\_\_\_  
GERALYN CARDENAS, INTERIM CITY CLERK XIV  
GB MTG 12/13/23

CITY ATTORNEY'S OFFICE:

Erin McSherry  
Erin McSherry (Dec 8, 2023 13:36 MST)

\_\_\_\_\_  
ERIN MCSHERRY, CITY ATTORNEY

Munis Contract# \_\_\_\_\_  
Original Contract Item# 23-0688 \_\_\_\_\_  
SWPA/GSA/Coop/RFP/ITB #: \_\_\_\_\_

**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
Intergovernmental Service Agreement  
ITEM#23-0688**

This AMENDMENT No 1 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add an additional twenty-two (22) Capital appropriations as seen on Exhibit A.

2. COMPENSATION:

Article D, of the Agreement is amended in its entirety as follows:


NCNMEDD has agreed to provide the agreed upon services at one percent (1%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from these Capital appropriations to make such payments.

3. CONTRACT IN FULL FORCE.

Except as specifically provided in this Amendment, the Agreement 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 Agreement as of the dates set forth below.

CITY OF SANTA FE:

  
Alan Webber (Mar 14, 2024 10:01 MDT)  
ALAN WEBBER, MAYOR

DATE: Mar 14, 2024

NCNMEDD  
  
MONICA ABEITA  
EXECUTIVE DIRECTOR

Executive Director  
TITLE

DATE: Feb. 20, 2024

ATTEST:

  
GERALYN CARDENAS (Mar 14, 2024 11:32 MDT)  
GERALYN CARDENAS, INTERIM CITY CLERK  
GB MTG 03/13/2024 *XIV*

CITY ATTORNEY'S OFFICE:

  
Marcos Martinez (Feb 16, 2024 13:08 MST)  
SENIOR ASSISTANT CITY ATTORNEY

# EXHIBIT A

Approp ID	Leg. Session	Appropriation Title	Approp. Amount	Reversion Date	Agency	Bond Series
22-G2419	2022	Jemez Road Construction	\$ 400,000	6/30/2026	NMED	STB23SC
22-G3010	2022	SF Fire Fleet Equip / Upgrade Improv	\$ 120,000	6/30/2026	DFA	STB23SC
22-G3012	2022	Harrison Rd Improve Construct	\$ 100,000	6/30/2026	DFA	STB23SC
22-G3016	2022	Homebound Meals Program Improve	\$ 200,000	6/30/2026	DFA	STB23SC
22-G3017	2022	Midtown Property Infra Improve	\$ 1,100,000	6/30/2026	DFA	STB23SC
22-G3018	2022	SWAN Park Phase 2 Construct	\$ 380,000	6/30/2026	DFA	STB23SC
22-G3019	2022	Tierra Contenta Trail Improve	\$ 300,000	6/30/2026	DFA	STB23SC
22-G3165	2022	Median Beautify Phase 1 Design	\$ 1,170,000	6/30/2026	DOT	STB23SC
22-G3169	2022	Governor Miles Rd. Construct	\$ 300,000	6/30/2026	DOT	STB23SC
22-G3170	2022	Pacheco Street Improve	\$ 150,000	6/30/2026	DOT	STB23SC
G22-5353	2022	Mary Esther Gonzales Senior Ctr- Equip	\$ 235,530	6/30/2026	ALTSD	STB22SC- GO Bonds
G22-5354	2022	Pasatiemo Senior Ctr- Equip	\$ 65,805	6/30/2026	ALTSD	STB22SC- GO Bonds
23-H3200	2023	Santa Fe Building Upgrade	\$ 210,000	6/30/2027	DFA	General Fund
23-H3201	2023	SF Fire Station #2 Construction	\$ 3,995,000	6/30/2027	DFA	General Fund
23-H3202	2023	SF Homebound Meals Faculty Ren	\$ 200,000	6/30/2027	DFA	General Fund
23-H3203	2023	SF Midtown Infa. Improvement	\$ 4,900,000	6/30/2027	DFA	General Fund
23-H3204	2023	SF Muni Rec Sports Cmplx Field Const.	\$ 50,000	6/30/2027	DFA	General Fund
23-H3205	2023	SF Pickleball Cmplx Ft. Marcy Constr.	\$ 650,000	6/30/2027	DFA	General Fund
23-H3206	2023	SF SWAN Park Phase 2 Improvement	\$ 2,400,000	6/30/2027	DFA	General Fund
23-H3207	2023	SF Water History Park Improvement	\$ 350,000	6/30/2027	DFA	General Fund
23-H3359	2023	Governor Miles Road Improvement	\$ 210,000	6/30/2027	DOT	General Fund
23-H3360	2023	Pacheco Street Improvement	\$ 350,000	6/30/2027	DOT	General Fund

Munis Contract# \_\_\_\_\_  
Original Contract Item# 23-0688  
SWPA/GSA/Coop/RFP/ITB #: \_\_\_\_\_

**CITY OF SANTA FE  
AMENDMENT No. 2 TO  
Intergovernmental Service Agreement  
ITEM#23-0688**

This AMENDMENT No 2 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add an additional three (3) capital appropriations as seen on Exhibit B.

2. CONTRACT IN FULL FORCE.

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

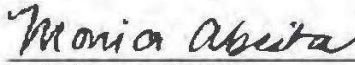
IN WITNESS WHEREOF, the parties have executed this Amendment No.2 to the Agreement as of the dates set forth below.

CITY OF SANTA FE:

  
Alan Webber (Apr 11, 2024 21:17 MDT)  
ALAN WEBBER, MAYOR

DATE: Apr 11, 2024

CONTRACTOR:  
NCNMEDD


  
MONICA ABEITA  
EXECUTIVE DIRECTOR

Executive Director  
TITLE

April 2, 2024

DATE: \_\_\_\_\_

ATTEST:

  
GERALYN CARDENAS (Apr 12, 2024 09:03 MDT)  
GERALYN CARDENAS, INTERIM CITY CLERK  
GB MTG 04/10/2024 XIV

CITY ATTORNEY'S OFFICE:

  
Marcos Martinez (Apr 4, 2024 09:38 MDT)  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

  
FINANCE DIRECTOR

## EXHIBIT B

23-2119198	for Santa Fe to purchase security cameras and security systems at municipal parks	\$ 95,000.00
23-2119300	to purchase equipment and to provide arson investigation training to fire department three in Santa Fe	\$ 125,000.00
23-2119401	for sanitization and deep cleaning of all municipal swimming pools in Santa Fe	\$ 75,000.00

**CITY OF SANTA FE  
AMENDMENT No. 3 TO  
Intergovernmental Service Agreement  
ITEM#23-0688**

This AMENDMENT No 3 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add twenty-two (22) capital appropriations as seen on Exhibit A.

2. CONTRACT IN FULL FORCE.

Except as specifically provided in this Amendment, the Agreement 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 Agreement as of the dates set forth below.

CITY OF SANTA FE:

  
Alan Webber (Nov 15, 2024 09:56 MST)  
ALAN WEBBER, MAYOR

DATE: Nov 15, 2024

CONTRACTOR:  
NCNMEDD

  
Monica Abeita (Oct 11, 2024 13:22 MDT)  
MONICA ABEITA  
EXECUTIVE DIRECTOR

DATE: Oct 11, 2024

ATTEST:

  
Andrea Salazar (Nov 15, 2024 11:02 MST)  
ANDREA SALAZAR, CITY CLERK 

CITY ATTORNEY'S OFFICE:

  
Marcos Martinez (Oct 11, 2024 13:26 MDT)  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

  
Emily K. Oster  
FINANCE DIRECTOR

# EXHIBIT A

Approp ID	Leg. Session	Appropriation Title	Approp. Amount	Reversion Date	Funding Agency	Funding Source
I2455	2024	Paseo Real Wastewater Facility	\$1,600,000	30-Jun-28	NMED	General Fund
I2457	2024	Jemez Rd Sewer	\$210,000	30-Jun-28	NMED	General Fund
I2458	2024	Vereda de Velencia WWater	\$160,000	30-Jun-2028	NMED	General Fund
I3023	2024	Police Dept. Equipment Purchase	\$250,000	30-Jun-2026	DFA	General Fund
I3134	2024	Fire Stn 2 Construct	\$250,000	30-Jun-2028	DFA	General Fund
I3136	2024	Soccer Valley MRC Construct	\$3,425,000	30-Jun-2028	DFA	General Fund
I3138	2024	Los Prados Park	\$438,000	30-Jun-2028	DFA	General Fund
I3141	2024	Fire SCBA Equip Purchase	\$250,000	30-Jun-2026	DFA	General Fund
I3142	2024	Ft Marcy Park Ren	\$5,000,000	30-Jun-2028	DFA	General Fund
I3143	2024	Permanent and Transitional Housing	\$400,000	30-Jun-2028	DFA	General Fund
I3144	2024	Railyard Bldg. Upgrade	\$100,000	30-Jun-2028	DFA	General Fund
I3145	2024	Railyard Multipurpose Bldg	\$175,000	30-Jun-2028	DFA	General Fund
I3146	2024	Regional Airport Phase 2 Improve	\$2,000,000	30-Jun-2028	DFA	General Fund
I3147	2024	River Park Pedestrian Bridge	\$240,000	30-Jun-2028	DFA	General Fund
I3318	2024	NM599-Airport Access Road	\$4,500,000	30-Jun-2028	NMDOT	General Fund
I3319	2024	Rufina St. & Lopez Lane Intersection	\$50,000	30-Jun-2028	NMDOT	General Fund
I3320	2024	Paseo del Sol Extension	\$50,000	30-Jun-2028	NMDOT	General Fund
I3321	2024	St. Michael's Rail Trail Underpass	\$100,000	30-Jun-2028	NMDOT	General Fund
I4219	2024	El Museo Improvements	\$126,950	30-Jun-2026	DFA	Severance Tax Bond
I4220	2024	Homebound Meals	\$100,000	30-Jun-2028	DFA	General Fund
I4221	2024	Municipal Court Renovations	\$29,843	30-Jun-2028	DFA	General Fund
I4222	2024	Supportive Housing	\$844,470	30-Jun-2026	DFA	General Fund